

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.795 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.44 of 2016 from the file of the Court of Senior Civil Judge, at Kavali, SPSR Nellore District, and transfer the same to Family Court, at Ongole.

2. Heard the learned counsel appearing for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 28.07.2012 at Vinjamur village of Nellore District as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one son. For one reason or other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Tanguturu town, Prakasam District. While things stood thus, the respondent filed H.M.O.P.No.44 of 2016 on the file of the Court of Senior Civil Judge, at Kavali under Section 13(1)(ia) of Hindu Marriage Act for dissolution of marriage. The petitioner filed D.V.C.No.3 of 2016 on file of the Special Mobile Court, Ongole, against the respondent. It is the case of the petitioner that she is facing much difficulty to travel from Tanguturu to Kavali in order to prosecute H.M.O.P.No.44 of 2016. Invariably, the respondent has to attend the Special Mobile Court, Ongole, in view of pendency of D.V.C.No.3 of

2016. While deciding the petitions of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings, more particularly, the wife.

4. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**¹, **Rachna Kanodia v. Anuk Kanodia**², and **Sumita Singh v. Kumar Sanjay**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, this Court is of the considered view that it is a fit case to allow the petition.

6. At the time of arguments, learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court, Ongole, on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.44 of 2016 is withdrawn from the file of the Court of Senior Civil Judge, Kavali, SPSR Nellore District, and transferred to the file of Family Court, at Ongole, for disposal in accordance with law. The presence of the respondent/husband is dispensed with in H.M.O.P.No.44 of

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

2016 before the Family Court, Ongole, on each and every date of adjournment. However, he shall appear before the Family Court, Ongole, as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:20.09.2018

Rns

