

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.762 of 2017

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw M.C.No.259 of 2017 from the file of the Family Court, Vijayawada, and transfer the same to the Court of Additional Senior Civil Judge at Narasaraopet, Guntur District.

2. Heard the learned counsel appearing for both the parties and perused the material on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 29.02.2012 at Yedavalli Village of Chilakaluripet Mandal, as per the Hindu rites and caste customs. Immediately after the marriage, the respondent joined the petitioner to lead marital life. Out of their lawful wedlock, the petitioner and respondent were blessed with two children. For one reason or other, disputes arose between the petitioner and the respondent; therefore, the respondent has been residing at her parents' house in Krishna District. The respondent filed M.C.No.259 of 2017, under Section 125 of Cr.P.C., on the file of the Family Court, Vijayawada, against the petitioner, seeking maintenance. While things stood thus, the petitioner filed H.M.O.P. No.126 of 2017, under Section 9 of Hindu Marriage Act, on the file of the Court of Additional Senior Civil Judge, Narasaraopet, for restitution of conjugal rights.

4. The only contention of the petitioner is that H.M.O.P.No.126 of 2017 is pending on the file of the Court of Additional Senior Civil Judge, Narasaraopet, therefore, it is a fit case to transfer the M.C.

No.259 of 2017 to the Court of Additional Senior Civil Judge, Narasaraopet.

5. A perusal of the record reveals that the children are residing with the respondent. The respondent is not in a position to maintain the children. It is very difficult for the respondent to travel from Vijayawada to Narasaraopet along with her two children. If the petition is allowed, the respondent along with her children have to go to Narasaraopet to prosecute H.M.O.P. No.126 of 2017. A perusal of the record, *prima-facie*, reveals that the respondent is facing financial hardships.

6. Having regard to the facts and circumstances of the case, I am of the considered view that it is not a fit case to allow the Petition.

7. In the result, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 15.12.2018
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