

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.875 of 2017

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw H.M.O.P.No.32 of 2017 from the file of the Court of Senior Civil Judge, Narasarpuram and transfer the same to the file of Family Court, Tirupati.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition. Hence, this Court is inclined to pass the order on merits.

3. Heard the learned counsel for the petitioner.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 06.8.2000 in Nayudupeta, SPSR 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, they were blessed with two children. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Tirupati along with her children.

5. While the things stood thus, the respondent filed H.M.O.P. No.32 of 2017 on the file of the Court of Senior Civil Judge, Narasapuram, against the petitioner under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, for dissolution of the marriage between the petitioner and the respondent. It is the case of the petitioner that she is not in a position to travel from Tirupati to Narasapuram along with children.

6. 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 to the wife and children. As per the principle enunciated in **T.Gayatri Devi v Dr.Tallepaneni Sreekanth**¹, **Sumita Singh v. Kumar Sanjay**² and **Rachna Kanodia v. Anuk Kanodia**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

7. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that the relief sought by the petitioner can be granted.

8. Accordingly, the Transfer CMP is allowed. H.M.O.P. No.32 of 2017 is withdrawn from the file of the Court of Senior Civil Judge, Narasapuram and transferred to the Family Court, Tirupati, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 16.8.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96