

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.859 OF 2017

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw O.P.No.22 of 2017 pending on the file of the Court of the Senior Civil Judge, Piler, Chittoor District and transfer the same to the Family Court, Nellore.

2 In spite of service of notice, the respondent did not choose to appear and contest the petition. Hence this court is inclined to pass orders on merits. Heard learned counsel for the petitioner.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 01.11.2012 at Tirupati as per Hindu rites and caste custom. Immediately after the marriage the petitioner joined the respondent to lead marital life. Due to various reasons, disputes arose between the petitioner and the respondent. The petitioner has been residing at her parents' house. The respondent filed O.P.No.22 of 2017 on the file of the Court of the Senior Civil Judge, Piler under Section 13 (1) (ia) (ib) of Hindu Marriage Act for dissolution of the marriage between him and the petitioner.

4 It is the case of the petitioner that she is not in a position to go to Piler to prosecute the O.P. A perusal of the record reveals that the petitioner filed FCMC No.84 of 2016 on the file of the Family Court, Nellore under Section 125 Cr.P.C. against the respondent seeking maintenance. It appears that the respondent filed the HMOP No.22 of 2017 after receiving summons in FCMC No.84 of 2016.

5 While deciding the petition of this nature, the Court has to consider the convenience of the parties to the proceedings, more particularly, the wife.

6 As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay¹**, **Rachna Kanodia Vs. Anuk Kanodia²**, and **V. Sailaja Vs. V. Koteswara Rao³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 petitioner deserves the relief as sought for. Invariably, the respondent has to attend the Family Court, Nellore in view of pendency of FCMC No.84 of 2016.

7 In the result, the petition is allowed, O.P.No.22 of 2017 pending on the file of the Court of the Senior Civil Judge, Piler, Chittoor District is withdrawn from the file of the said court and is transferred to the Family Court Nellore for disposal in accordance with law.

8 As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: August 14, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178