

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.807 of 2017

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw M.O.P.No.175 of 2017 from the file of the Court of Principal Senior Civil Judge, Srikakulam and transfer the same to the file of Family Court-cum-III Additional District Court, Vizianagaram.

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 about 26 years ago. 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. The petitioner filed F.C.O.P. No.93 of 2013 on the file of the Family Court-cum-III Additional District Court, Vizianagaram, against the respondent under Section 125 Cr.P.C., seeking maintenance to herself and the children, and the same was allowed. The petitioner filed E.P., in F.C.O.P. No.93 of 2013 and the same is pending. While the things stood thus, the respondent filed M.O.P.No.175 of 2017 on the file of the Court of Principal Senior Civil Judge, Srikakulam against the petitioner under Section 13(1)(ib) of the Hindu Marriage Act, for dissolution of the marriage. Invariably the respondent has to attend the Family Court-cum-III Additional District Court, Vizianagaram, in connection with the E.P., in F.C.O.P. No.93 of 2013.

5. 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.

6. 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.

7. Accordingly, the Transfer CMP is allowed. M.O.P. No.175 of 2017 is withdrawn from the file of the Court of Principal Senior Civil Judge, Srikakulam and transferred to the Family Court-cum-III Additional District Court, Vizianagaram, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 14.8.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96