



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3397]

**THURSDAY ,THE EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA
KRISHNA RAO**

TRANS. CIVIL MISC.PETITION NO: 114/2025

Between:

Chekuri (datia) Durga Bhavani

...PETITIONER

AND

Chekuri Venkata Satya Surya Narayana Raju

...RESPONDENT

Counsel for the Petitioner:

1.K V ADITYA CHOWDARY

Counsel for the Respondent:

1.

The Court made the following:

ORDER:

Today when the matter is taken up for hearing, Sri K.V.Aditya Chowdary, learned counsel for the petitioner has represented that the proof of service memo dated 21.04.2025, along with the postal track consignment sheet is filed before the Registry and the same is placed on the record. As per the track consignment sheet, the registered notice sent to the respondent was served on him on 07.04.2025. Therefore, service held sufficient. None appeared for the respondent.

2. The petitioner/wife filed the present petition under Section 24 of the Code of Civil Procedure, 1908, seeking to withdraw F.C.O.P.No.203 of 2024, on the file of the Family Court, Visakhapatnam and transfer the same to III Additional District & Sessions Judge, Bhimavaram.

3. The case of the petitioner in brief is as follows:

- I. The petitioner is the legally wedded wife of the respondent and their marriage has been performed at Kalla Mandal, West Godavari District on 24.05.2013 as per Hindu rites and customs. In view of the matrimonial disputes between both the parties, the petitioner/wife is staying at her parents' house at Kalavapudi Garuvu Village, West Godavari District and depending upon the mercy of her parents. The petitioner/wife pleaded that she had filed a Maintenance Case Vide M.C.No.5 of 2024 and a Domestic Violence Case vide D.V.C.(SR).No.6368 of 2024, on the file of the I Additional Junior Civil Judge, Bhimavaram, West Godavari District and the same are pending

for adjudication. The petitioner further pleaded that she had also filed H.M.O.P.No.55 of 2024 on the file of the Senior Civil Judge, Bhimavaram, West Godavari District under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights and the respondent/husband is attending the Court proceedings in the aforesaid cases before the competent Courts at Bhimavaram, West Godavari District. The petitioner contend that to cause inconvenience to her, the respondent/husband filed F.C.O.P.No.203 of 2024, on the file of the Family Court, Visakhapatnam, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking for dissolution of marriage.

- II. Learned counsel for the petitioner further contended that the petitioner being a woman, depending upon the mercy of her parents, it is very difficult for her to travel at a distance of more than 300 Kms from Kalavapudi, West Godavari District to Visakhapatnam without any male support and that she was constrained to file the present petition against the respondent/husband seeking to withdraw F.C.O.P.No.203 of 2024, on the file of the Family Court, Visakhapatnam and transfer the same to III Additional District & Sessions Judge, Bhimavaram.

4. Heard Sri K.V.Aditya Chowdary, learned counsel for the petitioner. Though registered notice sent to the respondent was served on him, none appeared for the respondent. Therefore, service held sufficient. Perused the material available on record.

5. The material on record *prima facie* goes to show that the petitioner/wife has filed a Maintenance Case Vide M.C.No.5 of 2024, a Domestic Violence

Case vide D.V.C.(SR).No.6368 of 2024, on the file of the I Additional Junior Civil Judge, Bhimavaram, West Godavari District and H.M.O.P.No.55 of 2024 on the file of the Senior Civil Judge, Bhimavaram, West Godavari District under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights and the respondent/husband is attending the Court proceedings in the aforesaid cases before the competent Courts at Bhimavaram, West Godavari District. The respondent/husband has filed F.C.O.P.No.203 of 2024, on the file of the Family Court, Visakhapatnam, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, seeking for dissolution of marriage.

6. The Apex Court in a case of **GEETA HEERA Vs HARISH CHANDER HEERA**¹, held by considering the fact that “if a wife does not have sufficient funds to visit the place where the divorce petition is filed by her husband, then the transfer petition filed by the wife may be allowed.”

7. The Apex Court in a case of **N.C.V. Aishwarya Vs A.S.Saravana Karthik Sha**² held as follows:

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio- economic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.”

¹ (2000) 10 SCC 304

² 2022 LiveLaw (SC) 627

8. On considering the submissions made by the learned counsel for the petitioner and in view of the ratio laid down in the aforesaid case laws that in matrimonial proceedings, the convenience of the wife has to be considered than that of the inconvenience of the husband. Therefore, this Court is of the considered view that there are grounds to consider the request of the petitioner/wife to withdraw F.C.O.P.No.203 of 2024, on the file of the Family Court, Visakhapatnam and transfer the same to the Senior Civil Judge, Bhimavaram, West Godavari District.

9. In the result, the present petition is allowed and F.C.O.P.No.203 of 2024, on the file of the Family Court, Visakhapatnam, is hereby withdrawn and transferred to the Senior Civil Judge Court, Bhimavaram, West Godavari District. The Family Court, Visakhapatnam, shall transmit the case record in F.C.O.P.No.203 of 2024 to the Senior Civil Judge Court , Bhimavaram, West Godavari District duly indexed as expeditiously as possible preferably within a period of two (02) weeks from the date of receipt of a copy of the order. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any pending and the Interim order granted earlier, if any, shall stand closed.

JUSTICE V.GOPALA KRISHNA RAO

Date: 08.05.2025

SRT