

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.Nos.805 and 806 of 2016

COMMON ORDER:

These two transfer civil miscellaneous petitions are filed by the petitioner under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw G.W.O.P.No.755 of 2016 and H.M.O.P.No.582 of 2016 pending on the file of the Family Court, Vijayawada, and transfer the same to the Family Court, Ranga Reddy District, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of Sri Venkateswara Rao Gudapati, learned counsel for petitioner/wife, and of Sri D.Anil Kumar, learned counsel for respondent/husband, and perused the material record.

The wife's case shorn of unnecessary details, in brief, is this:

“She is aged 31 years; she is a house wife; she is presently residing at Pragathi Nagar, Hyderabad along with her parents; she is having custody of a child aged 7 years; in the circumstances she is placed, she is unable to undertake travel on the date of every adjournment from her place of residence to Vijayawada, particularly in the light of the fact that she is having custody of a young child.”

Learned counsel for respondent, while orally resisting the application and denying the allegations made by the wife, would submit that the husband has no objection for considering the application of the wife on its own merit.

In the Indian context an earning male person is certainly better placed as he can under take travel all alone safely at all times (day or night) when compared to a non-earning female or a house wife. If necessary, he can spend a night at a place where he has no relatives or friends to stay with. The same cannot equally be said of a house wife. Further, the wife's submission that she cannot undertake travel from her place of residence to Vijayawada on the dates of every adjournment of the cases particularly in the light of the fact that she is having custody of an young child, needs consideration.

Having regard to the submissions in the application of the wife and also the submissions now made by the learned counsel, this Court is satisfied that the wife's convenience shall prevail and be preferred as her inconvenience outweighs the inconvenience, if any, that may be caused to the husband.

On the above analysis, this Court is satisfied that sufficient cause is shown by the petitioner/wife for granting the reliefs claimed by her in her petitions.

Accordingly, both the transfer civil miscellaneous petitions are allowed and G.W.O.P.No.755 of 2016 and H.M.O.P.No.582 of 2016 are withdrawn from the file of Family Court, Vijayawada, and are transferred to the Family Court, Ranga Reddy District, for trial and disposal either jointly or simultaneously, in strict accordance with the procedure established by law.

However, considering the request of the respondent/husband that his application filed in G.W.O.P.No.755 of 2016 for interim custody of the child/visitation rights requires expeditious disposal, the transferor Court is

directed to send the duly indexed records to the transferee Court as expeditiously as possible, preferably within a period of 10 days from the date of receipt of a copy of this order. The transferee Court, after receipt of such records, shall dispose of, on merits, the interlocutory application filed for interim custody/visitation rights by the husband in G.W.O.P.No.755 of 2016 presently on the file of the Family Court, Vijayawada, as expeditiously as possible and in any event within one month from the date of receipt of records from the transferor Court.

No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

23rd December 2016
ajr

M. SEETHARAMA MURTI, J

