

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.549 of 2016

ORDER:

This is a wife's application under Section 24 of the Code of Civil procedure, 1908, requesting to withdraw FCOP.No.22 of 2016 on the file of Family Court, Kurnool, and transfer the same to the Family Court, Kukatpally at Miyapur, for trial and disposal in accordance with the procedure established by law.

2. I have heard the submissions of *Sri Narasimha Rao Gudiseva*, learned counsel for the petitioner-wife, and of *Smt. Y. Harini*, learned counsel for the respondent-husband. I have perused the material record.

3. Shorn of un-necessary details, the case of the wife is as follows:

She is aged 30 years. She is a house wife. She is having no income or sources of income. At present she is staying at Serilingampally of Hyderabad with her parents. She is depending upon her brothers. She filed MC.no.203 of 2016 and also filed FCOP.No.1676 of 2016, under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights, and the same are pending on the file of the Family Court, at Kukatpally; she also filed DVC.no.32 of 2016 before the Court of the learned Metropolitan Magistrate, Cyberabad at Kukatpally. The husband is appearing in the said cases pending before the Courts. While so, he filed FCOP.no.22 of 2016 on the file of the Family Court, Kurnool, for dissolution of marriage and grant of divorce. Due to her financial weakness and incapacity and inability to undertake travel from her place of residence to the Court at Kurnool, she filed the present petition seeking transfer of the husband's OP from the file of Family Court, Kurnool, to the Family Court, Kukatpally at Miyapur.

4. The husband filed a counter denying all the allegations made in the application of the wife and also setting out his case. In the counter, it is stated that he has no objection to allow the petition of the wife, however, with exemplary costs.

At the hearing, learned counsel for the petitioner-wife reiterated the case of the wife, which is stated supra. Learned counsel for the husband while stating that the present application is filed by the wife to harass the husband further submits that the husband is having aged parents and that he has to look after them and that the wife is an educated lady having immovable properties and sources of income and that in case this Court comes to the conclusion that the OP filed by the husband is to be transferred as prayed for by the wife, the petition may be ordered imposing exemplary costs.

5. I have given detailed and thoughtful consideration to the facts and submissions.

6. Considering the issues involved in the cases filed by the wife and the husband and the evidence that is likely to be adduced by both the parties in the said cases, which would be more or less common, it is in the interests of both parties that both the cases should be tried and disposed of by a single forum, be it the Family Court at Kurnool or the Family Court at Miyapur. In the light of the afore-stated facts and the totality of the circumstances of the case, it is obvious that the inconvenience of the wife in travelling from her place of residence to Kurnool to attend the case filed by the husband at that place would outweigh the inconvenience, if any that may be caused to the husband. Further, the provision of Section 9 of the Hindu Marriage Act, 1955, as amended in the year 2003, gives liberty to the wife to file a petition under the provisions of the said Act before a Court within the local limits of whose ordinary original civil jurisdiction she is residing on the date of presentation of her petition. Thus, the Statute gives a special status to the wife insofar as the place of suing.

In the Indian context an earning male person is certainly better placed as he can undertake 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.

7. Having regard to the above stated reasons and as the inconvenience of the wife outweighs the inconvenience, if any, of the husband, this Court is of the considered view that sufficient cause is shown for ordering the petition.

8. Viewed thus, this Court finds that there is no merit in the contention of the husband that the petition shall be allowed with exemplary costs.

9. In the result, the petition is allowed and FCOP.No.22 of 2016 is withdrawn from the file of the Family Court, Kurnool, and is transferred to the file of the Family Court, Kukatpally at Miyapur, for trial and disposal in accordance with the procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

15<sup>th</sup> December, 2016  
Vjl