

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.CMP.No.443 of 2016

ORDER:

This is a petition by the wife under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw OP.No.96 of 2016 on the file of the Family Court, City Civil Court, Secunderabad, and transfer the same to the Family Court, Khammam, for trial and disposal in accordance with law.

2. I have heard the submissions of Sri P. Durga Prasad, learned counsel for the petitioner-wife. Though the respondent-husband is served with notice, none appears. I have perused the material record.

3. Sans un-necessary allegations, the case of the petitioner-wife in support of her request for transfer, in brief, is as follows: - 'She is aged 30 years. After separation between the spouses, she is living with her parents; though she is a qualified Advocate, she has no income or sources of income; she is depending upon her parents; she has filed M.C.No.4 of 2016 before the Court of the learned II Additional Judicial Magistrate of First Class, Khammam; the respondent filed the above OP in the Family Court, City Civil Court, Secunderabad; due to her financial weakness and incapacity she is not in a position to undertake travel all alone on the date of each adjournment and attend the Court at Secunderabad, which is at a distance of more than about 200 kilometers from the place of her residence.'

4. The husband is not resisting the petition.

5. At the hearing, learned counsel for the petitioner-wife would submit that keeping in view the circumstances the petitioner is placed and the preponderance of the authority her convenience is to be preferred and shall prevail over the inconvenience, if any, of the husband. He would also submit

that the wife is unable to concentrate on her profession due to the matrimonial disputes and that she is not getting any income from her profession.

6. 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. As rightly urged, as per the preponderance of authority, the wife's convenience shall be considered and shall prevail unless there are any special circumstances warranting taking a different view. Further, the husband having not entered appearance is not resisting the petition; and, in the case on hand, on consideration of the facts and circumstances of the case and the submissions, this Court does not find any special circumstances to take a different view and deny the relief to the petitioner-wife.

7. On the above analysis, this Court is of the considered view that the convenience of the wife outweighs the inconvenience, if any, of the husband and shall prevail.

8. In the result, the petition is allowed and OP.No.96 of 2016 on the file of the Family Court, City Civil Court, Secunderabad, is withdrawn from the file of the said Court and is transferred to the file of the Family Court, Khammam, for trial and disposal in accordance with the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions pending if any in this TROMP shall stand closed.

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M. SEETHARAMA MURTI, J

8<sup>th</sup> December, 2016  
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