

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.212 of 2016

ORDER:

This is a wife's application under Section 24 of the Code of Civil procedure, 1908, requesting to withdraw O.P.No.89 of 2015 on the file of the Court of the learned Senior Civil Judge, Addanki of Prakasam District, and transfer the same to the file of the Court of the learned Senior Civil Judge, Gurajala of Guntur District, for trial and disposal in accordance with the procedure established by law.

2. I have heard the submissions of *Sri J. L. Babu*, learned counsel for the petitioner-wife, and of *Sri A. Suryanarayana*, 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 28 years. She is a Postgraduate. She is unemployed and has no sources of income. Her father died recently. Her mother is unwell. Earlier her father used to accompany her to the Court at Addanki of Prakasam District. After his death, there is nobody to accompany her to the said Court on the date of every adjournment. She filed a criminal complaint. On the basis of the said complaint a Calendar Case No.163 of 2015 is taken on file by the learned Junior Civil Judge, Piduguralla. She had also filed D.V. Case No.4 of 2015 on the file of the said Court. The husband is attending the cases pending before the said Court. In view of her financial weakness and inability to attend the Court at Addanki, which is at a distance of 95 KMs, she is constrained to file this petition for transfer.

4. Sans un-necessary details, the case of the husband is this: - 'The wife is a Postgraduate. She filed the two cases at Junior Civil Court, Piduguralla of Guntur District, only to harass the husband. Though he is working abroad, he is

attending both the cases at Piduguralla. In-fact, the petitioner once complained to the police to take appropriate action to prevent him to go to his place of work at Abu Dhabi and to see that he loses his job. In case this Court comes to the conclusion that transfer of the husband's petition is to be ordered, it may be ordered to be transferred to Narsaraopet, which is at a convenient distance from both the places of the wife and husband. If the case of the husband is transferred to the Court of the learned Senior Civil Judge, Guntur, the husband would be put to hardship.'

5. In reply, learned counsel for the wife would submit that most of the time the husband is staying abroad and that his father, who is a GPA holder, is looking after the case filed by him.

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

7. It is an admitted fact that the wife is unemployed and that her father passed away recently and that she is staying presently with her mother at Piduguralla town. The OP is filed by the husband for divorce under Section 13(1)(ia)&(ib) of the Hindu Marriage Act, 1955. 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. 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. Though in the case on hand, the OP is filed by the husband, the said provision cannot be totally ignored.

8. On the above analysis, this Court is of the view that inconvenience of the wife outweighs the inconvenience, if any, that may be caused to the husband in case his case is transferred as sought for in the petition of the wife.

9. Viewed thus, this Court finds that there is considerable merit in the request of the petitioner-wife.

20. In the result, the petition is allowed and O.P.No.89 of 2015 is withdrawn from the file of the Court of the learned Senior Civil Judge, Addanki of Prakasam District, and is transferred to the file of the Court of the learned Senior Civil Judge, Gurajala of Guntur District, 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

01st December, 2016
Vjl

