

**HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**

**Tr.C.M.P.No.531 of 2016**

**ORDER:**

This is a wife's application under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw F.C.O.P.No.200 of 2016 on the file of Family Court, Nellore, and transfer the same to the Family Court, Tirupati, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of Sri P.Hemachandra, learned counsel for petitioner, and of Sri V.Sivaprasada Reddy, learned counsel appearing for the respondent.

I have perused the material record.

Shorn of unnecessary details, the case of the wife is that she is aged 25 years; she is working as Assistant Manager of HDFC Bank, Tirupati of Chittoor District; she is residing at that place since the date of separation between the spouses; in view of her employment and her inability to undertake travel all alone on the date of every adjournment of the case from Tirupati to Nellore, she is constrained to file the present petition.

Though the respondent/husband has not filed counter, his learned counsel, while orally resisting the application, would submit that the distance between the two places is about 130 kilometers; the wife is gainfully employed; no cases are pending at Tirupati; the OP is filed for restitution of conjugal rights; and, in case the OP is allowed, the petitioner has to lead conjugal life by joining the respondent either at Nellore or Bangalore, where the respondent works; therefore, the request of the wife does not merit

consideration; there are no grounds to order for transfer of the case. In reply, learned counsel for petitioner would submit that both the parties are not residing at Nellore and that the respondent/husband is presently working at Bangalore and, therefore, Nellore is not a place convenient either for the wife or the husband and hence, if the case is transferred to a Court at Tirupati, it would be convenient not only to petitioner but also to the respondent as that place is well connected to Bangalore by road and railways.

Having regard to the submissions of the wife which merit consideration and as the convenience of the wife shall be preferred and prevail unless there are special circumstances waarranting to take a different view, this Court is satisfied that the wife's request can be considered. Moreover, 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. Viewed thus, this Court is satisfied that sufficient case is made out by the wife for granting the relief as prayed for in her petition.

In the result, the Tr.C.M.P. is allowed and F.C.O.P.No.200 of 2016 is withdrawn from the file of Family Court, Nellore, and is transferred to the Family Court, Tirupati, for trial and disposal in accordance with the procedure established by law.

There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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**M. SEETHARAMA MURTI, J**

24<sup>th</sup> November 2016

ajr

