

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.CMP.No.476 of 2016

ORDER:

This is a wife's application under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw HMOP.No.17 of 2016 on the file of the Court of the learned Senior Civil Judge at Parchur of Prakasam District, and transfer the same to the file of the Court of the learned Principal Senior Civil Judge, Tenali of Guntur District, for trial and disposal in accordance with law.

2. I have heard the submissions of Sri N. Srihari, learned counsel for the petitioner-wife and of Sri Ghanta Sridhar, learned counsel for the respondent-husband. I have perused the material record.

3. Shorn of unnecessary details, the case of the wife is this: "She is a house wife aged 23 years; after separation between the spouses, she is living with her parents at Vemuru village of Guntur District; she has no income or sources of income; she is dependant on her parents; she has filed M.C.No.58 of 2015 before the Court of the learned II Additional Junior Civil Judge, Tenali; she has also filed D.V.C.No.3 of 2016 before the same Court; the said cases are pending; the husband is attending to the said cases before the said Court; however, he filed the above OP in the Court at Parchur of Prakasam District only to harass her; due to her financial weakness and incapacity to undertake travel all alone on the date of every adjournment of the said OP; and in the circumstances she is placed, she is not in a position to attend the Court at Parchur of Prakasam District, which is at a distance of more than about 140 kilometers from the place of her residence.'

4. Learned counsel for the respondent while orally resisting the petition would submit that the request of the wife may be considered on its own merit.

5. As per the settled legal position and preponderance of authority, the convenience of wife shall prevail and shall be preferred unless there are special circumstances warranting taking a different view. 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. Having regard to the submissions made on behalf of the wife, this Court is satisfied that sufficient case is made out for granting the relief as prayed for in her petition.

6. In the result, the petition is allowed and HMOP.No.17 of 2016 on the file of the Court of the learned Senior Civil Judge at Parchur of Prakasam District, is withdrawn from the file of the said Court and is transferred to the file of the Court of the learned Principal Senior Civil Judge, Tenali of Guntur District, 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 TRCMP shall stand closed.

M. SEETHARAMA MURTI, J

8th December, 2016
Vjl