

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.554 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.320 of 2016 on the file of Family Court, City Civil Court, Secunderabad, and transfer the same to the Family Court, Warangal, for trial and disposal in accordance with the procedure established by law. The said OP was filed by the respondent/husband under Section 32 of the Indian Divorce Act for restitution of conjugal rights.

I have heard the submissions of Sri P.Mehar Srinivasa Rao, learned counsel for petitioner, and perused the material record. The respondent is served with notice as per the note of the Registry. However, he did not enter appearance.

Shorn of unnecessary details, the case of the wife is this: After separation between the spouses, she is residing with her parents at Kazipet, Warangal District; she is a house wife; she has no income or sources of income; she filed a criminal complaint; and, a case in Crime No.113 of 2015 was registered by the Women Police Station, Warangal, for the offences punishable under Sections 498-A and 506 of IPC read with Sections 3 and 4 of the Dowry Prohibition Act; she had also filed M.C.No.73 of 2015 on the file of Family Court, Warangal. In view of her financial weakness and physical incapacity to undertake travel from Kazipet to Secunderabad, and as the case for maintenance filed by her is pending on the file of Family Court, Warangal, she is constrained to file the present petition to transfer the OP filed by the respondent from the Family Court, City Civil Court, Secunderabad to the Family Court, Warangal.

As already noted, the respondent/husband is not resisting the petition by entering appearance.

Since the issues involved in the case filed for maintenance by the wife at Warangal and the case filed by the husband in the Family Court, City Civil Court, Secunderabad, require adjudication more or less on the same pleadings and evidence likely to be adduced by the parties, it would be in the interests of both the parties that both the cases should be adjudicated by one Court not only to avoid conflicting decisions but also for the convenience of the parties. In the Indian context an earning male person is certainly better placed as he can under take 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.

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.

Accordingly, the Tr.C.M.P. is allowed and F.C.O.P. No.320 of 2016 is withdrawn from the file of the Family Court, City Civil Court, Secunderabad, and is transferred to the Family Court, Warangal, 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.

M. SEETHARAMA MURTI, J

24th November 2016
ajr