

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.558 of 2016

ORDER :

This is wife's application under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw D.O.P. No.8 of 2015 on the file of Family Court, Kadapa, and transfer the same to the Court of learned Senior Civil Judge, Dharmavaram, Anantapuram District, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of the learned counsel for petitioner Sri Satheesh Kumar Eerla and perused the material record. Though respondent-husband is served, there is no appearance and there is no representation for him.

The case of the petitioner is that she is presently residing along with her parents at Dharmavaram of Anantapuram District and that she is having custody of 2 children aged 8 and 4 years and that she already filed M.C.No.10 of 2015 on the file of the Court of learned Judicial Magistrate of First Class, Dharmavaram, for award of maintenance to her and her children and that in the circumstances in which she is placed, she is having no financial capacity and male assistance and therefore it is difficult for her to undertake travel along with her minor children from Dharmavaram to the Court at Kadapa and therefore, she is obliged to file this transfer petition.

As per the settled legal position and preponderance of authority, the convenience of wife shall prevail unless there are special circumstances to take a different view. In view of the submissions of learned counsel for

petitioner and in the absence of any special circumstances shown to the Court by the husband by entering appearance, this Court is satisfied that sufficient case is made out by the wife for granting relief as prayed for.

In the result, the Tr.C.M.P is allowed and D.O.P. No.8 of 2015 is withdrawn from the file of Family Court, Kadapa, and is transferred to the Court of the learned Senior Civil Judge, Dharmavaram, Anantapuram District, for trial and disposal in strict accordance with the procedure established by law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

M. SEETHARAMA MURTI, J

3rd November 2016

ajr

