

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.CMP.No.472 of 2016

ORDER:

This is a petition by the wife under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw OP.No.8 of 2015 (stated to have been incorrectly mentioned in the pleadings as OP.No.8 of 2016) on the file of the Court of the learned Senior Civil Judge, Jagtial of Karimnagar District, and transfer the same to the Court of the learned Principal Senior Civil Judge at Amalapuram, for trial and disposal in accordance with law.

2. I have heard the submissions of Sri G. Rama Gopal, learned counsel for the petitioner-wife. Despite service of notice on the respondent-husband, none appears. I have perused the material record.

3. Sans un-necessary allegations, the case of the petitioner-wife, in brief, is as follows:- 'After separation between the spouses, she is living with her paternal uncle at Kommaragiripatnam near Amalapuram of East Godavari District. Her parents are residing in a nearby village, Tatipaka. She filed a case for maintenance in MC.no.40 of 2015 on the file of the Court of the learned Additional Judicial Magistrate of First Class, Amalapuram. While so, the respondent-husband filed the aforementioned OP under Section 13(1)(ia) of the Hindu Marriage Act, 1955, for dissolution of marriage and grant of divorce. She has no sources of income. In view of her weak financial capacity and inability to undertake travel to attend the Court case at Jagtial, which is at a distance of more than 700 KMs, she filed the present petition seeking transfer of the said OP filed by the husband.'

4. The husband is not opposing the petition.

5. 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. Having regard to the facts and the circumstances and as there are no special circumstances warranting taking a different view, this Court finds that the convenience of the wife is to be preferred and shall prevail over the convenience of the husband. On consideration of the relevant facts and the convenience of the wife, this Court is of the view that sufficient case is made out by the petitioner-wife for granting the relief.

6. In the result, the petition is allowed and OP.No.8 of 2015 on the file of the Court of the learned Senior Civil Judge, Jagtial, 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, Amalapuram, 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

1st December, 2016
Vjl