

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

TRCMP.No.581 of 2016

ORDER:

This is a petition by the wife under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw HMOP.No.2 of 2016 on the file of the Court of the learned Senior Civil Judge, Parvathipuram of Vizianagaram District, and transfer the same to the Additional Family Court at Visakhapatnam, where FCOP.No.803 of 2016 filed by the wife for grant of maintenance is pending. HMOP.No.2 of 2016 was filed by the husband for dissolution of marriage and grant of divorce.

2. I have heard the submissions of the learned counsel for the petitioner-wife. Despite service of notices on the respondent and his learned counsel, appearing in the proceedings before the trial Court, none appears. I have perused the material record.

3. The case of the petitioner as per her pleading and as per the submissions made on her behalf, in brief, is as follows:-

On account of the matrimonial disputes and estrangement between the spouses and the failure on the part of the husband to maintain her and her daughter, she is constrained to file the aforementioned FCOP.No.803 of 2016 seeking maintenance. The respondent-husband filed the subject HMOP.No.2 of 2016 on the file of the Court of the learned Senior Civil Judge at Parvathipuram of Vizianagaram District. She does not have the financial capacity to contest the litigation at Vizianagaram. She is staying with her parents at Visakhapatnam. They are unable to accompany her to the Court at Vizianagaram on the date of every adjournment. She cannot undertake travel all alone. It would be inconvenient for her to travel with her daughter to the Court at Vizianagaram. Hence, it is just and fair to grant the relief.

4. The husband is not opposing the petition.

5. Having regard to the facts and the circumstances and as there are no special circumstances warranting taking a different view, the convenience of the wife is to be preferred over the convenience of the husband. On consideration of the relevant facts and the convenience of the wife and her daughter, 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 HMOP.No.2 of 2016 on the file of the Court of the learned Senior Civil Judge, Parvathipuram of Vizianagaram District, is withdrawn from the file of the said Court and is transferred to the file of the Additional Family Court at Visakhapatnam for trial and disposal in accordance with the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 TROMP shall stand closed.



M. SEETHARAMA MURTI, J

17.10.2016
Vjl