

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.653 of 2016

ORDER:

This is a wife's application under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw O.P. No.51 of 2013 on the file of the Court of the learned Senior Civil Judge, Nandigama of Krishna District, and transfer the same to the Family Court at Rajahmundry of East Godavari District, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of Sri S.Sriramachandra Murty, learned counsel for petitioner/wife and perused the material record. As per the note of the Registry, the respondent is served with notice; however, none appeared for the respondent and the respondent remained *ex parte*.

Shorn of unnecessary details, the case of the wife is this: "She is aged 28 years; she is having custody of a girl child of about 5 years of age; she is presently staying at Dowleshwaram along with her parents; she is a house wife; she is not having any income or sources of income; she is depending upon her parents; due to her financial weakness and inability to undertake travel to Nandigama of Krishna District, which is at a distance of more than 200 kilometres from her place of residence, she is constrained to file the present petition for transfer of the O.P. filed by the husband to the Family Court at Rajahmundry from the Court of Senior Civil Court, Nandigama of Krishna District."

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 to take a different view. The respondent/husband, having not entered appearance, has not shown any special circumstances to take a different view. 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. Having regard to the submissions of the wife, this Court is satisfied that sufficient case is made out for granting the relief as prayed for in her petition.

Accordingly, the Tr.C.M.P. is allowed and O.P. No.51 of 2013 is withdrawn from the file of the Court of the learned Senior Civil Judge, Nandigama, Krishna District, and is transferred to the Family Court, Rajahmundry, for trial and disposal in accordance with the procedure established by law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

M. SEETHARAMA MURTI, J

1st December 2016

ajr