

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Transfer Civil Miscellaneous Petition No.544/2016

ORDER:

This is a wife's petition under Section 24 of the Code of Civil Procedure, 1908, requesting to transfer FCOP.No.692 of 2016 on the file of the Family Court at Visakhapatnam to the file of the Family Court at Srikakulam, where FCMC.No.14 of 2016 filed by the wife for grant of maintenance is pending. FCOP.No.692 of 2016 was filed by the husband for dissolution of marriage and grant of divorce.

2. I have heard Sri T. Vinod Kumar, learned counsel for the petitioner-wife. Though notice is served on the respondent and proof of service in that regard is filed, none appears. I have perused the material record.

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

After disputes and estrangement between the spouses, she is living at APHB colony, Srikakulam, along with her parents. She is also having a minor child in her custody. She has no financial capacity. Her father is physically handicapped. Therefore, there is no male assistance to accompany her and her child at the time of travel from her place of residence to the Family Court at Srikakulam, which is at a distance of more than 100 Kilometres, where FCOP.No.692 of 2016 is filed by the husband. She has already filed FCMC.No.14 of 2016 before the Family Court at Srikakulam. The husband is gainfully employed and it would be convenient for him to travel to Srikakulam and contest the case filed by the wife as well as prosecute his case in case it is transferred to Srikakulam. It would be inconvenient for her to travel with her child to the Court at Visakhapatnam. Therefore, the ends of justice would be sub-served if the request of the wife is considered.

4. The husband is not resisting 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, more particularly in the light of the further fact that the wife is having custody of a minor child. 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 In the result, the petition is allowed and FCOP.No.692 of 2016 on the file of the Family Court at Visakhapatnam is withdrawn from the file of the said Court and is transferred to the file of the Family Court at Srikakulam for trial and disposal in accordance with the procedure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

27.10.2016  
Vjl