

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.651 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.694 of 2016 on the file of Family Court, Vijayawada, and transfer the same to the Court of the learned Senior Civil Judge, Tadepalligudem of West Godavari 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 B.Jaya Prabhakara Rao, and perused the material record. Though respondent is served with notice he has not entered appearance.

The case of the wife, which is relevant for consideration, in brief, is as follows: 'After estrangement between the spouses, she is living with her parents at Chanamilli village of Nidamaru Mandal in West Godavari District. She is having custody of two school going boys aged 17 and 14 years. She is a house wife. She is having no source of income. In a case filed by her for award of maintenance, maintenance @ Rs.3,000/- per month and @ Rs.1,500/- each per month was granted to her and her two sons. She is having life threat at the hands of her husband. As the respondent is financially sound and as he has no other responsibilities as those being faced by the wife, it is not difficult for him to travel from his place to Tadepalligudem and attend the Court at Tadepalligudem, West Godavari District, in case his case is transferred to Tadepalligudem as prayed for in the petition of the wife. On account of financial weakness and incapacity to undertake travel from her place of residence in West Godavari District to the

Family Court at Vijayawada and as there is no male person to accompany her at the time of travel, she is constrained to file the present petition seeking transfer of husband's petition from the Family Court, Vijayawada to the Court of the learned Senior Civil Judge, Tadepalligudem of West Godavari District.

The husband is not resisting the wife's petition by entering appearance.

As per the settled legal position and preponderance of authority, the convenience of wife shall prevail, in a case of this nature, unless there are special circumstances warranting taking a different view. Further, the husband is not resisting the application. Having regard to the facts and submissions of the wife, this Court is satisfied that sufficient case is made out for granting relief as prayed for in the wife's petition.

In the result, the Tr.C.M.P is allowed and O.P.No.694 of 2016 is withdrawn from the file of Family Court, Vijayawada, and is transferred to the Court of the learned Senior Civil Judge, Tadepalligudem, West Godavari District, for trial and disposal in strict accordance with the procedure established by law.

Pending miscellaneous applications, if any, shall stand closed.

M. SEETHARAMA MURTI, J

17th November 2016

ajr

