

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Transfer Civil Miscellaneous Petition No.633 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.818 of 2016 from the file of the Family Court, Visakhapatnam, and transfer the same to the file of Family Court, Rajahmundry, East Godavari District, for trial and disposal in accordance with the procedure established by law.

2. I have heard the submissions of Sri. *Ch.Shanmukha Rao*, the learned counsel for the petitioner-wife. I have perused the material record. Notice is served on the respondent and memo of proof of service is filed. However, none appeared for the respondent.

3. Shorn of unnecessary details, the case of the petitioner-wife is as follows: 'After separation of the spouses, she is residing with her parents at Bommuru village of Rajahmundry. She is a house wife aged 40 years. She has no income or sources of income. She is having custody of a minor daughter aged nine years. Her daughter is pursuing higher education in a school at Rajahmundry. While so, the respondent-husband filed the subject OP on the file of the Family Court, Visakhapatnam. In the circumstances she is placed and due to her financial weakness and incapacity to undertake travel to attend the case filed by the husband in a Court at a place which is away from the place of her residence, she is constrained to file the present petition for transfer of O.P.No.818 of 2016 from the file of the Family Court,

Visakhapatnam, to the file of Family Court, Rajahmundry, East Godavari District.”

4. The financial weakness, inconvenience, incapacity of the wife to undertake travel from Bommuru village of Rajahmundry to Visakhapatnam, where the OP filed by the husband is pending, require due consideration more particularly in the light of the fact that she is having custody of a girl child aged nine years. As per the preponderance of the precedential authority, the wife's convenience is to be preferred and shall prevail, in the absence of any special circumstances warranting taking a different view. The husband having not entered appearance and having remained *ex parte* has not shown any special circumstances to take a different view. This Court is thus satisfied that sufficient cause is shown for granting the relief.

5. In the result, this petition is allowed and O.P.No.818 of 2016 is withdrawn from the file of the Family Court, Visakhapatnam, and is transferred to the Family Court, Rajahmundry, East Godavari District, for trial and disposal in accordance with the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Transfer CMP, shall stand closed.

M. Seetharama Murti, J

29th December, 2016
Bvv