

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.545 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.996 of 2016 from the file of the Family Court, Ranga Reddy District, and transfer the same to the Additional Senior Civil Court, Srikakulam, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of Sri V.Sudhakar Reddy, learned counsel for petitioner/wife and perused the material record.

The notice sent to the respondent is returned with a postal endorsement "unclaimed". The said returned postal cover is filed into the Court vide U.S.R.No.8358 of 2016. Therefore, there is deemed service.

Shorn of unnecessary details, the case of the wife is this: "She is aged 20 years; after separation between the spouses, she is residing at Ranasthalam of Srikakulam District along with her parents; she has no income or sources of income; she is dependant on her parents; the respondent/husband neglected to maintain her; therefore, she filed M.C.No.20 of 2016 on the file of the Court of the learned Judicial Magistrate of First Class, Srikakulam; she has also filed M.O.P.No.75 of 2016 on the file of the Court of the learned Additional Senior Civil Judge, Srikakulam for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1955, and the same is pending; she has no financial capacity and ability to

undertake travel on the date of each adjournment, from Srikakulam to the Family Court at Ranga Reddy District.”

The wife specifically pleads financial incapacity and physical inability to undertake travel from Ranasthalam of Srikakulam District to Ranga Reddy District, which is at a considerable distance. In the Indian context, an earning male person is certainly better placed as he can undertake 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. It is trite to note that the provision of Section 19 (iii-a) of the Hindu Marriage Act, 1955, as amended in the year 2003, postulates that in case, the wife is the petitioner, every petition under the said Act shall be presented to the District Court within local limits of whose ordinary civil jurisdiction she is residing on the date of the presentation of her petition. The wife's petition for restitution of conjugal rights which was filed under the provision of Section 9 of the said Act is pending before the Additional Senior Civil Court, Srikakulam. As already noted, the aforestated provision of Section 19 of the Act, gives liberty to the wife to file a petition under the provisions of the said Act within the local limits of the Court where she is residing on the date of presentation of the petition for restitution of conjugal rights. Thus, the statute gives special status to the wife insofar as to the place of suing. As per the settled legal position and preponderance of authority, the convenience of the 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. Having regard to the submissions of the wife and the above said reasons, 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.996 of 2016 is withdrawn from the file of the Family Court, Ranga Reddy District, and is transferred to the Court of the learned Additional Senior Civil Judge, Srikakulam, for trial either jointly or simultaneously with M.O.P.No.75 of 2016 on the file of the Court of the learned Additional Senior Civil Judge, Srikakulam, and disposal in accordance with the procedure established by law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

M. SEETHARAMA MURTI, J

16th December 2016

ajr

