

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.641 of 2016

ORDER :

This is a wife's application under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw F.C.O.P.No.1302 of 2016 on the file of Family Court, Ranga Reddy District at L.B.Nagar, and transfer the same to the Family Court, Vijayawada, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of the learned counsel for petitioner, Sri V.Subrahmanyam, and perused the material record. Though respondent is served with notice he has not entered appearance.

Shorn of unnecessary details, the case of the petitioner/wife is this: 'After estrangement between the spouses, she is living with her parents at Ramakrishna Puram, Vijayawada. As the respondent neglected to maintain her, she filed M.C.No.252 of 2016 on the file of Family Court, Vijayawada seeking maintenance. The said case is pending. The husband filed aforementioned F.C.O.P., in the Family Court, Ranga Reddy District, under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. Her parents are employed and her brother is studying 10th Class. Therefore, there is no male assistance to accompany her at the time of travel from Vijayawada to Hyderabad for attending the Court case F.C.O.P.No.1302 of 2016 filed by her husband. She has a life threat at the hands of the respondent/husband. Therefore, she is constrained to file the present petition seeking transfer of husband's petition from the Family Court, Ranga Reddy District at L.B.Nagar to the Family Court, Vijayawada. Further, the provision of

Section 9 of the Hindu Marriage Act, 1955, as amended in the year 2003, gives liberty to the wife to file a petition under the provisions of the said Act before a Court within the local limits of whose ordinary original civil jurisdiction she is residing on the date of presentation of her petition. Thus, the statute gives a special status to the wife insofar as the place of suing. 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 in Ranga Reddy District to Vijayawada and attend the Court at Vijayawada, in case his case is transferred as prayed for in the petition of the wife.'

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 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 by the wife for granting the relief prayed for in the wife's petition.

In the result, the Tr.C.M.P is allowed and F.C.O.P.No.1302 of 2016 is withdrawn from the file of Family Court, Ranga Reddy District at L.B.Nagar, and is transferred to the Family Court, Vijayawada, 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

