

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.650 of 2016

ORDER:

This is a wife's application under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw H.M.O.P. No.95 of 2016 on the file of the Court of the learned Senior Civil Judge, Tenali of Guntur District, and transfer the same to the Court of the learned Senior Civil Judge, Narayanapet of Mahaboobnagar District, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of Dr.Challa Srinivas Reddy, learned counsel for petitioner/wife and perused the material record. Though respondent is served with notice, he remained exparte.

Shorn of unnecessary details, the case of the wife is this: "She is aged 36 years; after separation between the spouses, she is living with her parents; she has no income or sources of income; she is dependant on her parents; she has filed M.C.No.35 of 2016 before the Court of the learned Judicial Magistrate of First Class, Kodangal; she has also filed D.V.C.No.23 of 2016 before the same Court; the said cases are pending; the respondent is appearing in both the cases pending before the said Courts; however, he filed the above OP in the Court at Tenali of Guntur District; due to her financial weakness and incapacity to undertake travel all alone and in the circumstances she is placed, she is not in a position to attend the Court at Tenali of Guntur District, which is at a distance of more than about 400 kilometers from the place of her residence.

As per the settled legal position and preponderance of authority, the convenience of 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. In the Indian context an earning male person is certainly better placed as he can under take 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. Having regard to the submissions of the wife, 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Accordingly, the Tr.C.M.P. is allowed and H.M.O.P. No.95 of 2016 is withdrawn from the file of the Court of the learned Senior Civil Judge, Tenali of Guntur District, and is transferred to the Court of the learned Senior Civil Judge, Narayanapet of Mahaboonagar District, for trial and disposal in accordance with the procedure established by law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

M. SEETHARAMA MURTI, J

1st December 2016

ajr