

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Transfer Civil Miscellaneous Petition No.573 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.284 of 2015 from the file of the Family Court, Guntur, and transfer the same to the Family Court, Visakhapatnam, for trial and disposal in accordance with the procedure established by law.

2. I have heard the submissions of Sri. *G.Vasantha Rayudu*, the learned counsel for the petitioner-wife. I have perused the material record. Though the respondent is served with the notice, none appeared.

3. Shorn of unnecessary details, the case of the petitioner-wife is as follows: 'She is a house wife aged 27 years. She is having custody of a child aged three years. After separation of the spouses, she is living with her parents at Pitapuram Colony of Visakhapatnam. She has no income or sources of income. She filed F.C.O.P.No.969 of 2016 on the file of the Family Court, Visakhapatnam, for award of maintenance to her and her minor daughter. The respondent-husband filed the subject F.C.O.P. No.284 of 2015 on the file of the Family Court, Guntur. 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 F.C.O.P.No.284

of 2015 from the file of the Family Court, Guntur, to the Family Court, Visakhapatnam.”

4. The financial weakness, inconvenience, incapacity of the wife to undertake travel from Visakhapatnam to Guntur, 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 3 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 In the result, this petition is allowed and F.C.O.P.No.284 of 2015 is withdrawn from the file of the Family Court, Guntur, and is transferred to the Family Court, Visakhapatnam, for trial and disposal in accordance with the procedure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.

29th December, 2016
Bvv

M. Seetharama Murthi, J