

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.CMP.No.524 of 2016

ORDER:

This is a petition by the wife under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw FCOP.No.281 of 2015 on the file of the Family Court, Nellore, and transfer the same to the Family Court at Visakhapatnam, for trial and disposal in accordance with law.

2. I have heard the submissions of Sri Nimmagadda Revathi, learned counsel for the petitioner-wife. Though the respondent-husband is served with notice, none appears. I have perused the material record.

3. Sans un-necessary allegations, the case of the petitioner-wife in support of her request for transfer, in brief, is as follows: - 'She is aged 27 years. She is presently living with her parents at Visakhapatnam. She is a house wife. She has no income or sources of income. She is depending upon her parents. In view of her weak financial capacity and inability to undertake travel on the date of every adjournment to attend the Court case at Nellore, which is at a distance of more than 600 KMs, she filed the present petition seeking transfer of the FCOP filed by the husband.'

4. The husband is not resisting the petition.

5. 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. 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 warranting taking a different

view. The respondent/ husband, having not entered appearance, has not shown any special circumstances to take a different view. Further, the husband having not entered appearance is not resisting the petition; and, in the case on hand, on consideration of the facts and circumstances of the case and the submissions, this Court does not find any special circumstances to take a different view and deny the relief to the petitioner-wife. Thus, this Court is satisfied that sufficient case is made out for granting the relief as prayed for in her petition.

6. In the result, the petition is allowed and FCOP.No.281 of 2015 on the file of the Family Court, Nellore, is withdrawn from the file of the said Court and is transferred to the file of the Family Court, Visakhapatnam, for trial and disposal in accordance with the procedure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 pending if any in this TRCMP shall stand closed.



M. SEETHARAMA MURTI, J

8th December, 2016
Vjl