

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.675 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.59 of 2016 on the file of the Court of the learned Senior Civil Judge, Sattenapalli of Guntur District, and transfer the same to the Court of the learned Senior Civil Judge, Kakinada of East Godavari District, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of Sri S.R.Sanku, learned counsel for petitioner/wife and perused the material record. Though respondent is served with notice, he did not enter appearance and remained *ex parte*.

Shorn of unnecessary details, the case of the wife is as under: "She is aged 23 years; she is having custody of a girl child aged about 3 years; she has no income or sources of income; she is dependant upon her parents; she has already filed M.C.No.24 of 2015 on the file of the Court of the learned IV Additional Judicial Magistrate of First Class, Kakinada, East Godavari District, for award of maintenance to her and the girl child; the respondent is not paying any maintenance; due to her financial weakness and incapacity to undertake travel from her place of residence at Gorripudi village of Gollapalli Mandal of East Godavari District to Sattenapalli of Guntur District, where the OP filed by the husband is pending, she is constrained to file this transfer petition.

I have given detailed and thoughtful consideration to the facts, pleadings and the submissions made. Wife's inconvenience, financial weakness, incapacity and lack of assistance to undertake travel to attend the case filed by the husband at Sattenapalli of Guntur District, which is away from her place of residence, require consideration, more particularly in the light of the fact that she is having custody of

a young girl child. 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. 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.59 of 2016 is withdrawn from the file of the Court of the learned Senior Civil Judge, Sattenapalli of Guntur District, and is transferred to the Court of the learned Senior Civil Judge, Kakinada of East Godavari 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