

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.625 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.35 of 2016 on the file of the Court of the learned Senior Civil Judge, Jangaon, and transfer the same to the Family Court, Ranga Reddy District at L.B.Nagar, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of the learned counsel for petitioner, Sri T.M.K.Chaitanya, and perused the material record. Though respondent is served with notice he did not enter appearance.

Shorn of unnecessary details, the case of the petitioner/wife is as follows: "After estrangement between the spouses, she is living with her parents at Indiramma nagar, Nacharam of Hyderabad. She is a house wife. She recently delivered a baby boy on 13.09.2016. Her husband is not providing any maintenance. Therefore, she filed M.C.No.224 of 2016 under Section 125 Cr.P.C., before the Family Court, Ranga Reddy. The respondent did not even meet her medical expenses for the delivery of the child and post-natal expenses. She had also filed a criminal case under Section 498-A of the Indian Penal Code against her husband. Investigation into the crime registered pursuant to her complaint is in progress. She also filed F.C.O.P.No.1832 of 2016 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. While so, the husband filed the present OP in the Senior Civil Court at Jangaon of Warangal District for grant of divorce. In the circumstances she is placed and in view of the further fact that she is

having a suckling child, she is not able to undertake travel and attend the Court case at Jangaon of Warangal District. Therefore, she is constrained to file the present petition seeking transfer of husband's petition from the Court of the learned Senior Civil Judge, Jangaon to the Family Court, Ranga Reddy District. 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 to Ranga Reddy District and attend the Court at Ranga Reddy, in case his case is transferred as prayed for in the petition of the wife. 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."

The husband is not resisting the 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, as the husband is not resisting the application. Having regard to facts and submissions of the petitioner/wife, this Court is satisfied that sufficient case is made out by the wife for granting relief as prayed for in her petition.

In the result, the Tr.C.M.P is allowed and F.C.O.P.No.35 of 2016 is withdrawn from the file of the Court of the learned Senior Civil Judge, Jangaon, and is transferred to the Family Court, Ranga Reddy District at

L.B.Nagar, 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

