

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.Nos.283 of 2017

ORDER:

This is a wife's petition, under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw OP.No.5 of 2017 from the file of the Court of the learned Senior Civil Judge, Bhongir, and transfer the same to the file of the II Additional District and Sessions Court-cum-Additional Family Court, Ranga Reddy District, Kukatpally of Miyapur, for trial and disposal in accordance with the procedure established by law.

I have heard the submissions of Sri N. Hanuman Naik, learned counsel for the petitioner. Learned counsel for the petitioner submitted that the notice taken to the respondent by RPAD is returned with an endorsement 'left' and, therefore, there is deemed service. The respondent has not entered appearance. I have perused the material record.

Shorn of unnecessary details, the facts, which require a brief mention, are, as follows:

The respondent-husband filed the afore-stated OP against the petitioner-wife under Section 9 of the Hindu Marriage Act, 1955, read with Section 7(a) of the Family Court's Act, 1984, for restitution of conjugal rights and the said OP is now pending on the file of the Senior Civil Court, Bhongir. The wife seeks transfer of that OP to the file of the Additional Family Court at Miyapur of Kukatpally of Ranga Reddy. The only grounds urged in the petition in support of her request are that she is not working and that she is presently depending upon her parents and that on the date of every hearing of the case, all the family members of her husband are coming to the Court, as they are residents of Bhongir, and that they are threatening her by saying that if she appears and contests the Court case they will see her end.

At the hearing, learned counsel for the petitioner-wife, while reiterating the pleaded case of the petitioner-wife, submitted that there is nobody to accompany and assist her and that on the date of every adjournment she has to look for a person to accompany her to attend the Court case at Bhongir and that in these circumstances, she is constrained to file the present petition requesting to withdraw the above said OP on the file of the Senior Civil Judge's Court, Bhongir, and transfer the same to the Court of the learned II Additional District and Sessions Judge-cum-Additional Family Court, Ranga Reddy District, Kukatpally of Miyapur.

Taking into consideration the contentions of the petitioner and the submissions now made on her behalf, this Court finds that sufficient case is made out for granting the relief as prayed for in her petition more particularly in the light of the fact that the husband is not coming forward to offer to pay to her, her traveling, lodging and incidental expenses on the day she is required to appear in the case before the Court at Bhongir and is not resisting the instant application. Further, it is stated that there is no video conferencing facility in the Court at Bhongir. 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.

On the analysis of the facts and circumstances of this case, this Court does not find any circumstances warranting taking a different view.

Accordingly, the Transfer Civil Miscellaneous Petition is allowed and OP.No.5 of 2017 on the file of the Senior Civil Judge's Court, Bhongir, is withdrawn from the file of the said Court and is transferred to the file of the II Additional District and Sessions Court-cum-Additional Family Court, Ranga Reddy District, Kukatpally of Miyapur, for trial and disposal in accordance with the procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

09.10.2017
Vjl

