

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI
Transfer Civil Miscellaneous Petition No.763 of 2016

ORDER:

This is a wife's application under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw OP. no.235 of 2016 on the file of the Family Court, Secunderabad, and transfer the same to the Additional Family Court, Hyderabad, where OS.No.849 of 2014 filed by her to declare the divorce decree as null and void is pending.

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

3. Shorn of un-necessary details, the case of the petitioner-wife, in brief, is this:

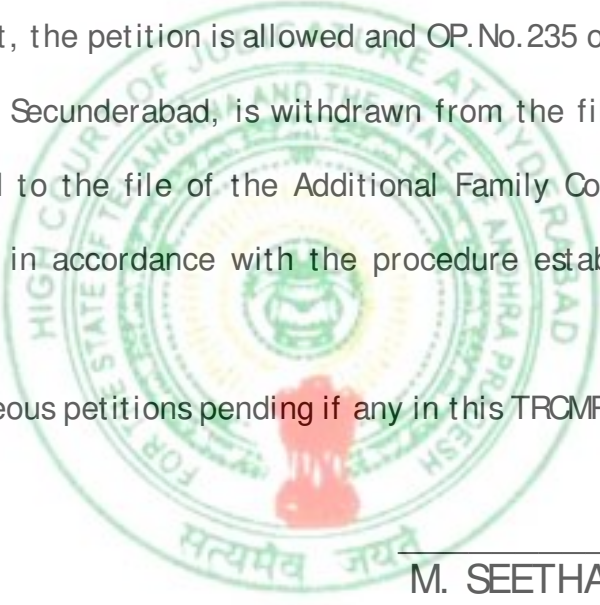
She filed OS.No.849 of 2014 on the file of the Additional Family Court, Hyderabad, for declaration that the divorce (Talaq) granted by the Office of Qazath, Hyderabad, is null and void. She had also filed MC.No.159 of 2014 on the file of the same Court for award of maintenance to her and her children. In both the cases, the respondent-husband had entered appearance and is contesting the matters. However, he filed the subject OP on the file of the Family Court, Secunderabad, seeking custody of the children. She is a house wife taking care of the young children. She has no income or sources of income. In the circumstances she is placed, she is unable to attend before two Courts. As her earlier two cases are pending on the file of the Additional Family Court, Hyderabad, it is just and necessary to transfer the OP filed by the husband also to the Additional Family Court, Hyderabad in the interests of justice.

4. I have given earnest consideration to the facts and the submissions.

5. Considering the issues involved in the cases, it is in the interest of both the parties that the cases should be tried and disposed of by a single forum, be it the Family Court, Secunderabad, or the Additional Family Court, Hyderabad,. Therefore, the issue for consideration is as to which of the two Courts should be preferred. In the circumstances stated by the petitioner-wife, who is having custody of the children, and as her two cases are prior in point of time and as her convenience shall be preferred and prevail in the facts and circumstances, this Court is satisfied that sufficient cause is shown for granting the relief more particularly as the husband having not entered appearance is not resisting the request of the wife.

6. In the result, the petition is allowed and OP.No.235 of 2016 on the file of the Family Court, Secunderabad, is withdrawn from the file of the said Court and is transferred to the file of the Additional Family Court, Hyderabad, for trial and disposal in accordance with the procedure established by law. No costs.

Miscellaneous petitions pending if any in this TRCMP shall stand closed.

M. SEETHARAMA MURTI, J

02nd January, 2017
Vjl