

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Transfer Civil Miscellaneous Petition No.448 of 2017

ORDER:

This is a wife's application, under Section 24 of the Code of Civil Procedure, 1908, requesting to withdraw G.O.P.No.72 of 2017 from the file of the Family Court, Khammam, and transfer the same to the Family Court, Machilipatnam, Krishna District, for trial and disposal in accordance with the procedure established by law.

2. I have heard the submissions of Sri *P.Prabhakara Rao*, learned counsel for the petitioner-wife. I have perused the material record.

3. Notice taken to the respondent at the address, which is mentioned in the Original Petition afore-stated was returned with an endorsement "No such Addressee". Learned counsel for the petitioner filed before the Registry, proof of service showing service of notice on the learned counsel appearing for the respondent in the Original Petition, on the file of the Family Court, Khammam.

4. Learned counsel for the petitioner submits as follows:

"After estrangement between the spouses, the petitioner-wife is residing along with her minor children in Penuganchiprolu Village and Mandal of Krishna District and that the present O.P., under Sections 7 & 10 of the Guardian & Wards Act, 1956, is filed by the husband against her seeking custody of the minor children and to appoint the petitioner in the OP as guardian for the minor children. Under Section 9 of the Guardians & Wards Act, 1890, if the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides. In view of the said provision of law, the Court at

Khammam is not having jurisdiction and that the husband/respondent herein ought to have filed the original petition before a competent Court in Krishna District but not in the Court situate at Khammam.”

5. Having considered the aforestated submission and the legal position obtaining, this Court is satisfied that the petitioner-wife has made out valid and sufficient grounds for granting the relief and that her request in the petition merits consideration.

6. In the result, the petition is allowed and G.O.P.No.72 of 2017 is withdrawn from the file of the Family Court, Khammam, and is transferred to the Family Court, Vijayawada of Krishna District, for trial and disposal in accordance with the procedure established by law. The transferor Court shall transmit the duly indexed record to the transferee Court as expeditiously as possible. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Transfer CMP, shall stand closed.

M.Seetharama Murti, J

Date: 3rd October, 2017

Note:- Issue CC by 23.10.2017

(B/o)

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215

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Date: 3rd October, 2017

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