

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P. NO.673 OF 2016

ORDER:

This petition is filed under Section 24 of C.P.C to withdraw H.M.O.P.No.34 of 2015 on the file of Judge, Family Court at Srikakulam and transfer the same to Judge, Family Court at Visakhapatnam.

The respondent/wife filed Tr.P (Civil) No.291 of 2016 before the Supreme Court, the Apex Court allowed the petition, while transferring MAT Case No.41 of 2015 pending before the Court of Senior Civil Judge at Kudligi, Bellary, State of Karnataka to the Family Court, Visakhapatnam.

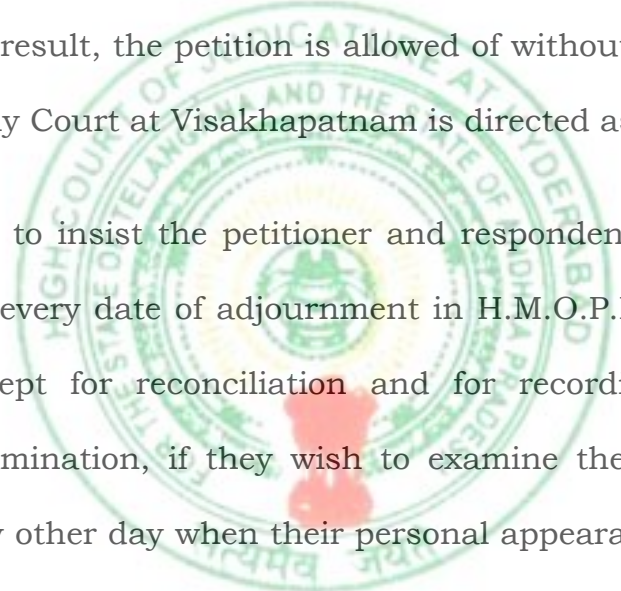
The main contention of the petitioner is that, the petitioner/husband under Section 13(1)(ia) of Hindu Marriage Act, in MAT Case No.41 of 2015 pending on the file of the Senior Civil Judge at Kudligi, State of Karnataka. Whereas, the respondent/wife filed H.M.O.P.No.34 of 2015 on the file of the Judge, Family Court at Srikakulam for restitution of conjugal rights, alleging that the petitioner/husband deserted her without reasonable excuse or cause.

If, MAT Case No.41 of 2015 and H.M.O.P.No.34 of 2015 are tried by two different Courts, there is likelihood of conflicting judgments and to avoid such conflicting judgments, keeping in view the inconvenience being caused to the petitioner/husband and respondent/wife, I deem it appropriate to withdraw H.M.O.P.No.34 of 2015 pending on the file of Judge, Family Court

at Srikakulam and transfer the same to the Judge, Family Court at Visakhapatnam.

Further, the Judge, Family Court at Visakhapatnam, is directed not to insist the appearance of the petitioner/husband before the Court on each and every date of adjournment, as long as he is being represented by his/her counsel in H.M.O.P.No.34 of 2015. The petitioner may appear before the concerned Court for reconciliation and for recording his evidence or whenever he is directed to appear personally by the Court for any specific purpose.

In the result, the petition is allowed of without costs and the Judge, Family Court at Visakhapatnam is directed as follows:

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- (1) not to insist the petitioner and respondent's appearance on every date of adjournment in H.M.O.P.No.34 of 2015, except for reconciliation and for recording his cross-examination, if they wish to examine themselves or on any other day when their personal appearance is directed by the H.M.O.P.No.34 of 2015. Further, this order will not preclude the Judge, Family Court, Visakhapatnam, to pass any order in accordance with law, in the event of their counsel's failure to appear and represent him.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:07.03.2018
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