

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.115 of 2017
and C.M.P.No.1835 of 2017

Divya ... Petitioner/Respondent

Vs.

V.Venkatesh Kumar ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.22 of 2016 pending on the file of the Sub-Court, Thiruvannamalai, and transfer the same to the file of the Family Court, Chengalpet.

For Petitioner : Mr.S.Anburaja
For Respondent : Mr.S.Silambuselvan

O R D E R

This petition is filed to withdraw H.M.O.P.No.22 of 2016 pending on the file of the Sub-Court, Thiruvannamalai and transfer the same to the file of the Family Court, Chengalpet.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 10.09.2014 as per Hindu rites and customs. In the wedlock, a male child was born on 16.05.2015. Due to difference of opinion arose between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.22 of 2016 for restitution of conjugal rights on the file of the Sub-Court, Tiruvannamalai. The petitioner filed counter on 15.07.2016.

3. According to the petitioner, she is residing with his minor son at her parental home in Chengalpat. The distance between Chengalpat and Tiruvannamalai is more than 150 kilometers. Hence, it is very difficult for her to travel along with her minor child from Chengalpat to Tiruvannamalai, to attend the hearing. Therefore, she prays for transfer of H.M.O.P.No.22 of 2016 from the file of the Sub-Court, Tiruvannamalai to the file of the Family Court, Chengalpat.

4. The learned counsel for the respondent submitted that the case is now pending before the Sub-Court, Tiruvannamalai, wherein presence of spouse is not mandatory. But whereas in the Family Court, presence of spouse is necessary for each and

every hearing. If the case is transferred from the Sub-Court, Tiruvannamalai to the Family Court, Chengalpat, the respondent has to appear before the Court for each and every hearing, which is very difficult for him. Hence, he prayed for dismissal of the petition.

5. At this juncture, both the learned counsel for the petitioner and respondent agreed to transfer the H.M.O.P.No.22 of 2016 to the file of the Sub-Court, Chengalpat.

6. Having regard to the submissions made by both sides counsel, the petition in H.M.O.P.No.22 of 2016 is ordered to be withdrawn from the file of the Sub-Court, Tiruvannamalai and transferred to the file of the Sub-Court, Chengalpat. The Sub-Court, Tiruvannamalai, is directed to transmit all the records pertaining to H.M.O.P.No.22 of 2016 to the file of the Sub-Court, Chengalpat, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

1. The Sub Judge,
Tiruvannamalai.

2. The Sub Judge
Chengalpat.

+1 CC to Mr.S. Anburaja, Advocate sr 43950

+1 CC to Mr.S. Silambu Selvan, Advocate sr 44097

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PVS (CO)
SP(07/07/2017)