

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

Tr. C.M.P No.119 of 2017
& C.M.P.No.2007 of 2017

Madhumitta

... Petitioner

Vs.

S.Praveen

... Respondent

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.3891 of 2016 pending on the file of the II Additional Family Judge, Chennai and transfer the same to the file of the Family Court, Coimbatore to be tried along with H.M.O.P.No.54 of 2017 on the file of the Family Court, Coimbatore.

For Petitioner : Mr.M.R.Thangavel

For Respondent : Mr.M.L.Rajesh

ORDER

This petition is filed to withdraw H.M.O.P.No.3891 of 2016 pending on the file of the II Additional Family Judge, Chennai and transfer the same to the file of the Family Court, Coimbatore to be tried along with H.M.O.P.No.54 of 2017 on the file of the Family Court, Coimbatore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 24.08.2011. In the wedlock a male child was born on 05.07.2013. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.3891 of 2016 on the file of II Additional Family Court, Chennai for restitution of conjugal rights and the same is pending. The petitioner also filed HMOP No.54 of 2017 on the file of Family Court, Coimbatore for dissolution of marriage.

3. According to the petitioner, she is residing at Coimbatore alongwith her parents and minor child. The distance between Coimbatore and Chennai is 500 kms and it is very difficult for her to attend each and every hearing before Family Court, Chennai alongwith her minor child. She is not having any independent income and is depending on her parents for her day-to-day expenses, including the travelling expenses. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition.

4. Heard the learned counsel for the petitioner, respondent and perused the materials available on record.

5. Though the learned counsel for the respondent filed typed set of papers enclosing proof of address showing that the petitioner is residing at Chennai, all the documents produced were when the petitioner and respondent were living together at Chennai.

6. It is well settled law whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.3891 of 2016 filed by the respondent, from the file of II Additional Family Court, Chennai, to the file of Family Court, Coimbatore where H.M.O.P.No.54 of 2017 filed by the petitioner for dissolution of marriage, is pending.

7. Considering the facts and circumstances of the present case and having satisfied with the reasons given in the affidavit filed in support of the petition, without deciding the issue on merits, the petition in H.M.O.P.No.3891 of 2016 is ordered to be withdrawn from the file of II Additional Family Court, Chennai and transferred to the file of the Family Court, Coimbatore to be tried alongwith HMOP No.54 of 2017, pending on its file. The Presiding Officer, II Additional Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.3891 of 2016 to the file of the Family Court, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the Presiding Officer, Family Court, Coimbatore is directed to

dispose of both HMOP Nos.3891 of 2016 & 54 of 2017, as expeditiously as possible, in any event, not later than six (6) months from the date of receipt of case bundles from the concerned court.

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

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The II Additional Family Court,
Chennai.
2. The Family Court,
Coimbatore.

+1cc to Mr.M.L.Rajesh, Advocate, S.R.No.45356
+1cc to Mr.C.Anbu, Advocate, S.R.No. 45390

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CS/12/07/17

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