

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.238 of 2017
and
C.M.P.No.4285 of 2017

Lakshmi Raja Synthiya ... Petitioner/Respondent

Vs.

E.Suresh Kumar ... Respondent/Petitioner

PRAYER : Petition has been filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.369 of 2016 on the file of the Family Court, Salem and transfer to the file of Subordinate Court, Pollachi.

For Petitioner : Mr.K.Venkatasubban
for M/S.Saravabhauman Associates

For Respondent : Mr.S.P.Yuvaraj

O R D E R

This petition is filed to withdraw F.C.O.P.No.369 of 2016 from the file of the Family Judge, Salem and transfer to the file of the Subordinate Court, Pollachi.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.01.2002, as per Hindu rites and customs. In the wedlock, two children were born to them on 17.04.2003 and 08.03.2006. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed FCOP.No.369 of 2016 for restitution of conjugal rights on the file of the Family Court, Salem. The petitioner also filed H.M.O.P.No.144 of 2016 for divorce on the file of the Subordinate Court, Pollachi .

3. According to the petitioner, she is residing at Pollachi with her parents along with her minor children. The distance between Salem and Pollachi, is more than 100 kilometres and hence, it is very difficult for her to travel from Pollachi to Salem to attend the hearing before Family Court, Salem. Further, the petitioner has no independent income and is depending on her parents for her day-to-day expenses including travelling expenses. Therefore, she prays

for transfer of F.C.O.P.No.369 of 2016 from the file of the Family Court, Salem to the file of the Subordinate Court, Pollachi.

4. Heard the learned counsel for the petitioner and the respondent.

5. It is well settled law that 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].

6. Having regard to the submissions made by the learned counsel for the petitioner and with the above cited decisions, the petition in F.C.O.P.No.369 of 2016 is ordered to be withdrawn from the file of the Family Court, Salem and transferred to the file of the Subordinate Court, Pollachi. The Presiding Officer, Family Court, Salem, is directed to transmit all the records pertaining to F.C.O.P.No.369 of 2016 to the file of the Subordinate Court, Pollachi, within a period of two weeks from the date of receipt of a copy of this order.

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

gsa/gv

To

1. The Family Court,
Salem.
2. The Subordinate Court,
Pollachi.

+1cc to M/s.Saravabhauman Associates, Advocate, S.R.No.44707
+1cc to Mr.S.P.Yuvaraj, Advocate, S.R.No.44798

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CS V
CA(12/07/2017)