

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.268 of 2017
and
CMP No.5054 of 2017

Sangeetha

... Petitioner

Vs.

P.Venkatesh Prabu

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the HMOP No.76 of 2016 from the file of Sub Court, Periyakulam and transfer the same to the file of the Sub Court, Dharapuram to be tried along with H.M.O.P.No.29 of 2017 pending on the file of Sub Court, Dharapuram.

For Petitioner : Mr.S.Saravanan

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw the HMOP No.76 of 2016 from the file of Sub Court, Periyakulam and transfer the same to the file of the Sub Court, Dharapuram to be tried along with H.M.O.P.No.29 of 2017 pending on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 26.05.2012 as per Hindu rites and customs. In the wedlock, a female child was born on 24.12.2013. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.76 of 2016 on the file of Sub Court, Periyakulam for dissolution of marriage. The petitioner also filed HMOP No.29 of 2017 on the file of Sub Court, Dharapuram for restitution of conjugal rights.

3. According to the petitioner, she is residing at Kangayam alongwith her aged parents and minor child. The distance between Kangayam and Periyakulam is more than 200 kms. and being a lady, it is very difficult for her to attend each and every hearing before the Sub Court, Periyakulam along with her minor child. She is not having any independent income and is depending on her aged 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. Though notice has been served on the respondent and his name has been printed in the cause list on 22.06.2016, there is no representation for the respondent either in person or through counsel. Today also, there is no representation for the respondent.

5. 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.76 of 2016 filed by the respondent, from the file of Sub Court, Periyakulam, to the file of Sub Court, Dharapuram, where the H.M.O.P.No.29 of 2017 filed by the petitioner is pending.

6. 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.76 of 2016 is ordered to be withdrawn from the file of Sub Court, Periyakulam and transferred to the file of Sub Court, Dharapuram to be tried alongwith HMOP No.29 of 2017, pending on its file. The Presiding Officer, Sub Court, Periyakulam is directed to transmit all the records pertaining to H.M.O.P.No.76 of 2016 to the file of Sub Court, Dharapuram, 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, Sub Court, Dharapuram is directed to dispose of both HMOP Nos.76 of 2016 & 29 of 2017, as expeditiously as possible.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rgr

To

1.The Subordinate Judge,
Periyakulam.

2.The Subordinate Judge,
Dharapuram.

+lcc to Mr.S.Saravanan, Advocate, S.R.No.45697

Tr.C.M.P. No.268 of 2017

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CA(26/07/2017)



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