

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P. No.297 of 2017

&

C.M.P. No.5738 of 2017

A.Nargis @ Lithiyal

... Petitioner

Vs.

J.Moses

.... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw and transfer I.D.O.P.No.2944 of 2016 pending on the file of the III Additional Family Court at Chennai to the District Court, Tuticorin.

For Petitioner : Mr.F.Terry Chellaraja

For Respondent : Mr.C.K.M.Appaji

ORDER

This petition has been filed by the petitioner seeking to withdraw the I.D.O.P.No.2944 of 2016 from the file of the III Additional Family Court at Chennai and transfer to the District Court, Tuticorin.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 16.06.2003 at Faith United Church, West Azhwar Thope, Tuticorin, as per rites and customs of Christianity. Due to difference of opinion, the respondent left the matrimonial home and filed I.D.O.P.No.2944 of 2016 for divorce on the ground of cruelty, before the III Additional Family Court at Chennai.

3. According to the petitioner, she is residing at Tuticorin along with her aged father. The distance between Tuticorin and Chennai is more than 600 kilo metres and further, the petitioner is not having any independent income and hence, it is very difficult for her to travel from Tuticorin to Chennai to attend the hearing. Therefore, she

prays for transfer of I.D.O.P.No.2944 of 2016 from the file of the III Additional Family Court at Chennai, to the file of the District Court, Tuticorin.

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

5. The learned counsel for the respondent submitted that the respondent is working as a Pastor in a Church in Chennai and it is very difficult for him to attend the Court proceedings in District Court, Tuticorin, and prays for dismissal of the petition.

6. 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].

7. Having regard to the submissions made by the learned counsel for the petitioner that the petitioner is living with her parents house at Tuticorin, the petition in I.D.O.P.No.2944 of 2016 is ordered to be withdrawn from the file of the III Additional Family Court at Chennai, and transferred to the file of the District Court, Tuticorin. The Presiding Officer, III Additional Family Court at Chennai, is directed to transmit all the records pertaining to I.D.O.P.No.2944 of 2016 to the file of District Court, Tuticorin, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

Jrl

To

1. The III Additional Family Court,
Chennai.

2. The District Court,
Tuticorin.

+1c to M/s.M.Malar,Advocate sr.44088

+1cc to Mr.C.K.M.Appaji,Advocate sr.44086

Tr.C.M.P. No.297 of 2017

pa(co)
ss(13/7/2017)



WEB COPY