

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P. No.311 of 2017

and C.M.P.No.5901 of 2017

S.Hema ... Petitioner/Respondent

Vs.

R.Saravanakumar ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., praying to withdraw and transfer the petition in H.M.O.P.No.2846 of 2016 pending on the file of the I Additional Family Court, at Chennai to the file of the Sub Court at Ooty.

For Petitioner : Mr.Praveen Alexander

O R D E R

This petition has been filed to withdraw and transfer the petition in H.M.O.P.No.2846 of 2016 pending on the file of the I Additional Family Court, at Chennai to the file of the Sub Court at Ooty.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 12.07.2009 at Nadar Kalyana Mandapam in Gudalur, Nilgiris District, as per Hindu rites and customs. A male child was born in the wed lock. Due to the difference of opinion, both the petitioner and respondent are living separately. According to the petitioner, the respondent-husband filed HMOP.No.2846 of 2016, on the file of Principal Family Court, Chennai, for divorce on the ground of cruelty making false allegation against the petitioner-wife and the same is pending.

3. It is stated by the petitioner that she and her minor child are living with her parents in Ooty. The distance between Ooty and Chennai is more than 600 kms and she finds it very difficult to travel along with the minor child to attend the divorce proceedings pending before the I Additional Family Court, Chennai. It is further submitted that the petitioner does not have any independent income and that she and her child wholly depend on her parents to lead their day to day life and hence, she is not able to meet out the expenditure incurred

during travel to Chennai to prosecute the matrimonial proceedings. In the said circumstances, the petitioner has filed the transfer petition seeking a direction to transfer the HMOP.No.2846 of 2016 pending on the file of I Additional Family Court, Chennai to Subordinate Court, Ooty.

4. Though notice was served on the respondent, the respondent has not entered appearance either in person or through counsel.

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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in HMOP.No.2846 of 2016 pending on the file of I Additional Family Court, Chennai to Subordinate Court, Ooty. 6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the proceedings in HMOP.No.2846 of 2016 pending on the file of I Additional Family Court, Chennai, is hereby withdrawn and transferred to the file of Subordinate Court, Ooty. The I Additional Family Court, Chennai, is directed to send the case bundles to the Subordinate Court, Ooty, forthwith. No costs. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar

//True Copy//

ds Sub Assistant Registrar

To

1. The I Additional Judge,
Family Court,
Chennai.

2. The Subordinate Judge,
Ooty.

+1cc to Mr.Praveen Alexander, Advocate, S.R.No.24790

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RJ(CO)

RS(05/06/2017)