

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.45 of 2017
and CMP No.935 of 2017

T. Dhivya Bharathi

... Petitioner

Vs.

Y. Arun

.... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer the FCOP No.563 of 2016 from the file of Family Court, Salem to the file of the Subordinate Court, Uthangarai, Krishnagiri District to be tried alongwith HMOP No.55 of 2016.

For Petitioner : Mr. K. Selvaraj
For Respondent : Dr.P.Jagadeesan

O R D E R

This petition is filed to withdraw and transfer the FCOP No.563 of 2016 from the file of Family Court, Salem to the file of the Subordinate Court, Uthangarai, Krishnagiri District to be tried alongwith HMOP No.55 of 2016.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 20.08.2015 as per Hindu rites and customs. In the wedlock a male child was born on 25.09.2014. Due to difference of opinion, the petitioner and the respondent are living separately. The petitioner filed H.M.O.P.No.55 of 2016 on the file of Sub Court, Uthangarai for restitution of conjugal rights and the same is pending. On receipt of summons, the respondent filed FCOP No.563 of 2016 before Family Court, Salem for divorce.

3. According to the petitioner, she is residing at Uthangarai. Only to harass the petitioner, the respondent has filed the FCOP No.563 of 2016 before Family Court, Salem. The distance between Uthangarai and Salem is more than 90 kms and being a lady, it is very difficult for her to attend each and every hearing before Family Court, Salem. 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. The learned counsel strongly objected for transfer of F.C.O.P.No.563 of 2016 from the file of the Family Court, Salem to Sub Court, Uthangarai .

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 F.C.O.P.No.563 of 2016 filed by the respondent, from the file of Family Court, Salem, to the file of Sub Court, Uthangarai where H.M.O.P.No.55 of 2016 filed by the petitioner for restitution of conjugal rights, 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 F.C.O.P.No.563 of 2016 is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of the Sub Court, Uthangarai to be tried alongwith H.M.O.P No.55 of 2016, pending on its file. The Presiding Officer, Family Court, Salem is directed to transmit all the records pertaining to F.C.O.P.No.563 of 2016 to the file of the Sub Court, Uthangarai, 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, Uthangarai is directed to dispose of both FCOP Nos.563 of 2016 & HMOP No.55 of 2016 jointly, 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/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rgr

To

1.The Presiding Officer,
Family Court,
Salem

2.The Subordinate Judge,
Uthangarai.

+lcc to mr.P.Jagadeesan, Advocate Sr. 45201

+lcc to Mr.K.Selvaraj, Advocate Sr. 45227

Tr.C.M.P. No.45 of 2017

LRS (CO)
VR(27/09/2017)



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