

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.51 of 2017

&

C.M.P.No.993 of 2017

S.Aiswarya

... Petitioner

Vs.

D.Arun

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.540 of 2016 from the file of the Family Court, Salem and transfer to the Subordinate Court, Virudhachalam, Cuddalore District.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.P.Jagadeesan

O R D E R

This petition is filed to withdraw F.C.O.P.No.540 of 2016 from the file of the Family Court, Salem and transfer to the file of the Subordinate Court, Virudhachalam, Cuddalore District.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.11.2014 as per Hindu rites and customs, in the wedlock, a female child was born on 21.09.2015. Due to dispute, both of them are living separately. The respondent filed F.C.O.P.No.540 of 2016 to dissolve the marriage between the petitioner and the respondent, on the file of the Family Court, Salem, on the ground of mental agony caused by the petitioner.

3. According to the petitioner, she is residing at Virudhachalam. She is unemployed and is depending on her ailing father along with her mentally retarded sister and she is also having 1 ½ years old female child. As the petitioner, being lady, is having a female child, is unable to defend the case at Salem. Therefore, she prays for transfer of F.C.O.P.No.540 of 2016 from the file of the Family Court, Salem to the file of the Subordinate Court, Virudhachalam, Cuddalore District.

4. Heard the learned counsel for the petitioner and the respondent and perused the materials available on record.

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 F.C.O.P.No.540 of 2016 on the file of the Family Court, Salem, to the file of Subordinate Court, Virudhachalam, Cuddalore District.

6. Having regard to the submissions made by the learned counsel on both sides and by relying on the above decision, the petition in F.C.O.P. No.540 of 2016 is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of the Subordinate Court, Virudhachalam, Cuddalore District. The Family Court, Salem, is directed to transmit all the records pertaining to F.C.O.P.No.540 of 2016 to the file of Subordinate Court, Virudhachalam, Cuddalore District, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kal

To

1. The Judge,
Family Court,
Salem.

2. The Subordinate Judge,
Virudhachalam,
Cuddalore District.

+1cc to Mr.P.Jagadeesan, Advocate, S.R.No.43853

+1cc to Mr.C.Munusamy, Advocate, S.R.No.43677

Tr.C.M.P.No.51 of 2017 &
C.M.P.No.993 of 2017

PA (CO)
<https://hcservices.ecourts.gov.in/hcservices/>
CA (05/07/2017)