

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.56 of 2017
and
C.M.P.No.1148 of 2017

Prabha ... Petitioner

Vs.

Baskaran ... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer the case in H.M.O.P.No.161 of 2016 on the file of the Subordinate Judge, Attur, and to transfer the same to the file of the Family Court, Puducherry.

For Petitioner : Mr.S.C.Vishwanth
For Respondent : Mr.V.R.Rajasekaran

ORDER

This petition is filed to withdraw H.M.O.P.No.161 of 2016 from the file of the Subordinate Court, Attur and to transfer the same to the file of the Family Court, Puducherry.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 02.02.1985 as per Hindu rites and customs and in the wed lock, two male child was born. Due to difference of opinion arose between the petitioner and respondent, both of them are living separately. The respondent filed H.M.O.P.No.161 of 2016 for restitution of conjugal rights and the same is pending before the Subordinate Court, Attur.

3. According to the petitioner, she is residing at Puducherry and she has also filed D.V.C.No.21 of 2016 and the same is pending before the learned Judicial Magistrate, Puducherry, and the respondent is regularly appearing before the learned Judicial Magistrate, Puducherry and hence, it will not be any difficult for him to appear before the learned Judicial Magistrate, Puducherry. Therefore, she prays for transfer of H.M.O.P.No.161 of 2016 from the file of the Subordinate Court, Attur, to the file of the Family Court, Puducherry.

4. The learned counsel appearing for the respondent submitted that the respondent is working as a Teacher and it

will be difficult for him to get leave and appear before the Court regularly and hence, he prays for dismissal of the petition.

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

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 along with the above decision, the petition in H.M.O.P.No.161 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Attur, and transferred to the file of the Family Court, Puducherry. The Presiding Officer, Subordinate Court, Attur, is directed to transmit all the records pertaining to H.M.O.P.No.161 of 2016 to the file of the Family Court, Puducherry, 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, Family Court, Puducherry, is directed to dispose the H.M.O.P.No.161 of 2016 within a period of four months 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/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Jr1

To

1. The Subordinate Court,
Attur.
2. The Family Court,
Puducherry.

+1cc to M/s.S.C.Vishwanth, Advocate SR.No.43943

+1cc to M/s.V.R.Rajasekaran, Advocate SR.No.43966

Tr.C.M.P. No.56 of 2017

SAI (CO)
GN(10/07/2017)