

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.82 of 2017
and
C.M.P.No.1628 of 2017

Sivasakthi

... Petitioner

Vs.

Subramanian

... Respondent

PRAYER:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.108 of 2016 from the file of the Sub-Court, Dharapuram and transfer to the file of the Sub-Court, Palani.

For Petitioner : Mr.M.Mariappan

For Respondent : Mr.S.Ramesh

O R D E R

This petition is filed to withdraw H.M.O.P.No.108 of 2016 from the file of the Sub-Court, Dharapuram and transfer to the file of the Sub-Court, Palani.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 29.06.2014 as per Hindu rites and customs. Due to difference of opinion, both the petitioner and respondent are living separately. The petitioner filed M.C.No.39 of 2016 seeking maintenance and HMOP.No.139 of 2016 for restitution of conjugal rights on the file of the learned Judicial Magistrate, Palani. The respondent filed H.M.O.P.No.108 of 2016 for restitution of conjugal rights, on the file of the Sub-Court, Dharapuram.

3. According to the petitioner, she is residing at Palani with her parents. The distance between Palani and Dharapuram is more than 40 kilometers and hence, it is very difficult for her to travel from Palani to Dharapuram to attend each hearing before the Sub-Court, Dharapuram. Further, the petitioner has no independent income and is depending on her parents for her day-to-day expenses including travelling expenses. Therefore, she prays for transfer of H.M.O.P.No.108 of 2016 from the

file of the Sub-Court, Dharapuram to the file of the Sub-Court, Palani.

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

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].

6. Having regard to the submissions made by the learned counsel for the petitioner along with the above decisions, the petition in H.M.O.P.No.108 of 2016 is ordered to be withdrawn from the file of the Sub-Court, Dharapuram and transferred to the file of the Sub-Court, Palani. The Presiding Officer, Sub-Court, Dharapuram, is directed to transmit all the records pertaining to H.M.O.P.No.108 of 2016 to the file of the Sub-Court, Palani, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gv/gsa

To

1. The Sub-Court,
Dharapuram.
2. The Sub-Court,
Palani.

Tr.C.M.P.No.82 of 2017
and
C.M.P.No.1628 of 2017

CS V
CA(12/07/2017)