

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2017

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.319 of 2015
and M.P.No.1 of 2015

Swarna Lakshmi @ Ramya

... Petitioner

Vs.

D.Rajesh Kanna

.... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the petition in H.M.O.P.No.17 of 2015 from the file of the Court of Principal Subordinate Judge, Tiruppur and to transfer the same to the file of the Court of the Sub-ordinate Judge of Pollachi and tried along with H.M.O.P.No.37 of 2015.

For Petitioner : Mr.R.Nandhakumar

For Respondent : Mr.V.Vijayakumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.17 of 2015 from the file of Principal Sub Court, Tiruppur and to transfer the same to the file of the Sub Court, Pollachi and to be tried along with H.M.O.P.No.37 of 2015.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 29.08.2010 as per Hindu rites and customs. In the wedlock, a male child was born on 06.02.2012. Due to the difference of opinion arose between the petitioner and respondent, both of them are living separately. The respondent filed H.M.O.P.No.17 of 2015 for a decree of divorce before the Sub-Court, Tirupur. While so, the petitioner also filed H.M.O.P.No.37 of 2015 for restitution of conjugal rights on the file of Sub Court, Pollachi.

3. According to the petitioner, she is residing along with her minor child in her parent's house at Pollachi. The distance between Pollachi and Tirupur is around 75 kilometers and hence, it is very difficult for her to travel from Pollachi to Tirupur to attend the hearings. Therefore, she prays for transfer of

H.M.O.P.No.17 of 2015 from the file of the Principal Sub Court, Tiruppur to the file of the Sub Court, Pollachi and to try along with H.M.O.P.No.37 of 2015 filed by the petitioner, pending on its file.

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

5. The learned counsel on both sides prayed for early disposal of HMOP proceedings.

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 on both sides and relying on the above decision, the petition in H.M.O.P.No.17 of 2015 is ordered to be withdrawn from the file of the Principal Sub Court, Tiruppur and transferred to the file of the Sub Court, Pollachi and to be tried along with H.M.O.P.No.37 of 2015, pending on its file. The Principal Sub Court, Tiruppur, is directed to transmit all the records pertaining to H.M.O.P.No.17 of 2015 to the file of the Sub-Court, Pollachi, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the learned Sub Judge, Pollachi, is directed to dispose of both the HMOP proceedings as expeditiously as possible, in any event, within a period of six months 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(J)

//True Copy//

Sub Assistant Registrar

dh/ds

To

1. The Principal Subordinate Judge,
Tiruppur.

2. The Subordinate Judge,
Pollachi.

+1cc to Mr.R.Nandhakumar, Advocate, S.R.No.43485

Tr.C.M.P. No.319 of 2015 &
M.P.No.1 of 2015

RR(CO)
CS/06/07/17



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