

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.293 of 2016
and C.M.P.No.8461 of 2016

Sudha

... Petitioner

Vs.

R.Parthiban

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.501 of 2015 from the file of the Sub Court, Poonamallee and transfer to the file of the Principal Sub-Court, Coimbatore, for being tried along with H.M.O.P.No.73 of 2016 on its file.

For Petitioner : Mr.K.Govi Ganesan

O R D E R

This petition is filed to withdraw H.M.O.P.No.501 of 2015 from the file of the Sub Court, Poonamallee and transfer to the file of the Principal Sub-Court, Coimbatore, for being tried along with H.M.O.P.No.73 of 2016 pending on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 04.09.2014 as per Hindu rites and customs. 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.501 of 2015 for divorce on the ground of cruelty, before the file of the Sub-Court, Poonamallee. The petitioner has also filed H.M.O.P.No.73 of 2016 for restitution of conjugal rights on the file of the Principal Sub-Court, Coimbatore.

3. According to the petitioner, she is residing at Somanur in Coimbatore. The distance between Coimbatore and Poonamallee is more than 500 kilo metres and hence, it is very difficult for her to travel from Coimbatore to Poonamallee to attend the hearing. Therefore, she prays for transfer of H.M.O.P.No.501 of 2015 from the file of the Sub Court, Poonamallee to the file of the Principal Sub-Court, Coimbatore and to try along with H.M.O.P.No.73 of 2016 pending on its file.

4. Notice has been sent to the respondent and the same was returned with an endorsement 'unclaimed'. This Court has directed the Registry to print the name of the respondent in the cause list. Though the name of the respondent has been printed in the cause list, there is no representation on behalf of him either in person or through counsel.

5. Heard the learned counsel for the petitioner.

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.501 of 2015 is ordered to be withdrawn from the file of the Sub-Court, Poonamallee and transferred to the file of the Principal Sub-Court, Coimbatore and to be tried along with H.M.O.P.No.73 of 2016. The presiding Officer, Sub-Court, Poonamallee, is directed to transmit all the records pertaining to H.M.O.P.No.501 of 2015 to the file of the Principal Sub-Court, Coimbatore, within a period of two weeks 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1.The Sub Court
Poonamallee.

2.The Principal Sub-Court
Coimbatore.

+lcc to Govi Ganesan, Advocate sr.41201

Tr.C.M.P. No.293 of 2016
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ss (19/6/2017)