

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-06-2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.776 of 2016

S.Nithya

... Petitioner/Defendants

Vs.

R.Prakash

... Respondent/Petitioners

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the case in I.D.O.P.No.34 of 2016, on the file of the Family Court, Erode and transfer the same to the Family Court, Salem, which is competent to deal with the matter and try along with I.D.O.P.No.14 of 2016.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : No Appearance

O R D E R

This transfer petition is filed to withdraw the case in I.D.O.P.No.34 of 2016, on the file of the Family Court, Erode and transfer the same to the Family Court, Salem and try along with I.D.O.P.No.14 of 2016.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 29.05.2013 as per Christian rites and customs. In the wedlock, a female child was born on 12.07.2014. According to the petitioner, the respondent left the petitioner at her parents' house with a promise to take her back to the matrimonial home within a week, but failed to take her. In the said circumstances, the petitioner issued a legal notice to the respondent on 22.06.2016 to restore the family life. The respondent in turn issued a reply notice stating that already he had filed a petition for restitution of conjugal rights in I.D.O.P. No.34 of 2016 on the file of the Family Court, Erode. While so, the petitioner filed a petition in IDOP No.14 of 2016 on the file of the Family Court, Salem, for divorce against the respondent.

3. According to the petitioner, she is residing in Salem District. The distance between Erode and Salem is more than 100 kilometers and being a lady, it is very difficult for her to attend each and every hearing before Family Court, Erode along with her minor child. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer I.D.O.P.No.34 of 2016 filed by the respondent, from the file of Family Court, Erode, to the file of Family Court, Salem.

4. Though notice has been served to the respondent and his name being printed in the cause list, there is no representation for the respondent either in person or through counsel.

5. It is well settled law 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 and by relying on the above decision, the petition in I.D.O.P. No.34 of 2016 is ordered to be withdrawn from the file of the Family Court, Erode and transferred to the file of Family Court, Salem and tried along with I.D.O.P. No.14 of 2016. The Family Court, Erode is directed to transmit all the records pertaining to I.D.O.P.No.34 of 2016 to the file of the Family Court, Salem, within a period of two weeks from the date of receipt of a copy of this order. The Family Court, Salem, is directed to dispose of the case, as expeditiously as possible, in any event, not later than six months from the date of receipt of the said records.

7. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs.

सत्यमेव जयते

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Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Judge,
The Family Court, Erode.

2.The Judge,
The Family Court, Salem.

+lcc to Mr.C.K.M.Appaji, Advocate Sr.43695

Tr.C.M.P.No.776 of 2016

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srg 30/06/2017



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