

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.CMP.No.784 of 2016
and CMP.No.19908 of 2016

P.Delsia

... Petitioner

Vs.

P.Praveen Rajasekaran

... Respondent

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw the I.D.O.P. No.7 of 2014 on the file of the District Court No.2, Kanchipuram and to transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.V.Kamal

O R D E R

This petition is filed to withdraw the I.D.O.P. No.7 of 2014 pending on the file of the District Court No.2, Kanchipuram and to transfer it to the Family Court, Coimbatore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnised on 11.09.2013. The case of the petitioner is that due to the torture given by the respondent and his parents, the petitioner left the matrimonial home and gave a complaint to the police against the respondent and his family members. The respondent filed a petition in I.D.O.P.No.7 of 2014 before the District Court No.II, Kancheepuram, for divorce making false allegations against the petitioner. The petitioner entered appearance and filed counter statement on 25.08.2014.

3. According to the petitioner, she is residing with her parents at Coimbatore. The distance between Coimbatore and Kancheepuram is more than 600 kilometers. Seeking transfer of IDOP. No.7 of 2014 from the District Court No.II, Kanchipuram to Family Court at Coimbatore, the petitioner originally filed a petition before this Court in Tr.CMP.No.837 of 2014. In the said IDOP, the petitioner was called absent and was set exparte on 27.7.2015. In view of the said exparte decree, the

Tr.CMP.No.837 of 2014 filed by the petitioner was dismissed as infructuous. Thereafter, the petitioner filed an application in I.A.No.1905 of 2015 to condone the delay of 93 days in filing the petition to set aside the exparte decree. The said application was allowed on 04.3.2016. Then, the petitioner filed a petition in I.A.No.402 of 2016 under Order IX Rule 13 CPC to set aside the exparte decree and the same was allowed on 17.10.2016. Accordingly, the petition in I.D.O.P.No.7 of 2014 was restored to file.

4. It appears that the petitioner is residing with her aged old parents at Coimbatore, who were also stated to be suffering from various ailments. Further, the distance between Coimbatore to Kancheepuram is more than 600 kms, being a lady, the petitioner finds it difficult to travel such a long distance. Moreover, the petitioner do not have any independent income and she is depending on her parents for her day to day expenses. In the said circumstances, the petitioner has come out with the present transfer petition praying to transfer the I.D.O.P. No.7 of 2014 pending on the file of the District Court No.2, Kanchipuram to the Family Court, Coimbatore.

5. The learned counsel appearing for the respondent submitted that the appearance of parties before the District Court is not necessary and hence there will not be any difficulty for the petitioner in prosecuting the case before District Court No.II, Kancheepuram and hence prays for dismissal of this transfer petition. He also filed counter affidavit before this Court today and submitted that the case in IDOP was posted for enquiry before the trial Court.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

7. 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].

8. Having regard to the submissions made by the learned counsel for the petitioner and placing reliance on the above decision, the petition in I.D.O.P. No.7 of 2014 is ordered to be withdrawn from the file of the District Court No.II, Kancheepuram and transferred to the file of the Family Court, Coimbatore. The District Court No.II, Kancheepuram, is directed to transmit all the records pertaining to I.D.O.P. No.7 of 2014 to the file of the Family Court, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. On

receipt of the records, the Family Court, Coimbatore, is directed to dispose of the case, as expeditiously as possible, in any event, not later than 30th September 2017.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ds

To

1.The District Court No.II
Kancheepuram

2.The Family Court,
Coimbatore.

+1cc to Mr.N.Manoharan, Advocate SR.No.42792

+1cc to Mr.V.Kamal, Advocate SR.No.43288

Tr.C.M.P. No.784 of 2016
and CMP.No.19908 of 2016

SAI (CO)
GN(03/07/2017)



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