

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.802 of 2016
C.M.P.No.20299 of 2016

Bhakiyalakshmi Petitioner

Vs.

N.V.Tejkiran Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.85 of 2015 from the file of the Sub-Court, Kancheepuram and transfer to the file of the Principal Judge, Family Court, Chennai for being tried along with H.M.O.P.No.3349 of 2016 on its file.

For Petitioner : M/s. R.Varalakshmi
For M/s.Majestic Law Firm
For Respondent : M/s.D.Geetha

ORDER

This petition is filed to withdraw H.M.O.P.No.85 of 2015 from the file of the Sub-Court, Kancheepuram and transfer to the file of the Principal Judge Family Court, Chennai, for being tried along with H.M.O.P.No.3349 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 12.09.2014 as per Hindu rites and custom. 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.85 of 2015 for divorce on the ground of cruelty, before the file of the Sub-Court, Kancheepuram. The petitioner has also filed H.M.O.P.No.3349 of 2016 for restitution of conjugal rights on the file of the Sub-Court, Kancheepuram.

3. According to the petitioner, she is residing at Manapakkam, Kancheepuram District. The distance between Chennai and Kancheepuram is more than 100 kilo metres and hence, it is very difficult for her to travel from Kancheepuram to Chennai to attend the hearing. Therefore, she prays for transfer of H.M.O.P.No.85 of 2015 from the file of the Sub-Court, Kancheepuram to the file of the Principal Judge Family Court, Chennai and to try along with H.M.O.P.No.3349 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.85 of 2016 is ordered to be withdrawn from the file of the Sub-Court, Kancheepuram and transferred to the file of the Principal Judge Family Court, Chennai and to be tried along with

V.M.VELUMANI,J.,

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H.M.O.P.No.3349 of 2016. The Sub-Court, Kancheepuram, is directed to transmit all the records pertaining to H.M.O.P.No.3349 of 2016 to the file of the Principal Judge Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. The Principal Judge Family Court, Chennai, 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.

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

19.06.2017

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To

1.The Sub Court, Kancheepuram

2. The Family Court, Chennai

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