

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2017

CORAM :

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

Tr.CMP.No.836 of 2016
and CMP. No.20551 of 2016

A.Mahalakshmi

... Petitioner

Vs.

D.Dayanidhi

... Respondent

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw and transfer HMOP.No.180 of 2015 pending on the file of the Sub Court, Namakkal and transfer the same to Sub Court, Cheyyar or Sub Court, Arni.

For Petitioner : Mr.P.Mani
For Respondent : No appearance

O R D E R

This transfer petition is filed to withdraw the proceedings in HMOP.No.180 of 2015 pending on the file of the Sub Court, Namakkal and transfer the same to the file of Sub Court, Cheyyar or to the file of Sub Court, Arni.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 19.12.2011 at Namakkal. In the wedlock, a female child was born on 21.01.2012. Both the petitioner and respondent are doctors by profession, and to pursue his higher studies, the respondent along with petitioner stayed at Chennai. Thereafter, difference of opinion arose between the petitioner and respondent in connection with running a clinic in Chennai or at Namakkal, and they are living separately. The respondent filed HMOP.No.180 of 2015 for restitution of conjugal rights on the file of Sub Court, Namakkal.

3. According to the petitioner, she is residing at her parent's house at Thenkazhini Village, Cheyyar Taluk, Tiruvannamalai District along with her minor child. The distance between Cheyyar and Namakkal is 654 kilometers. Hence, the petitioner finds it very difficult for her to travel such a long distance along with her minor child. Under the said circumstances, the petitioner has filed the transfer petition praying to withdraw the proceedings in HMOP.No.180 of 2015 pending on the file of Sub Court, Namakkal and transfer the same to the file of Sub Court, Cheyyar or to

the file of Sub Court, Arni.

4. Heard the learned counsel appearing for the petitioner. Though notice was served on the respondent, there is no representation for the respondent either in person or through counsel.

5. 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].

6. Having regard to the submissions made by the learned counsel for the petitioner and relying on the above decision, the petition in H.M.O.P.No.180 of 2015 is ordered to be withdrawn from the file of Sub Court, Namakkal and transferred to the file of Sub Court, Cheyyar. The Sub Court, Namakkal, is directed to transmit all the records pertaining to H.M.O.P.No.180 of 2015 to the file of Sub Court, Cheyyar, within a period of two weeks 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.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

ds

To

1. The Sub Judge,
Namakkal.
2. The Sub Judge,
Cheyyar.

+1 CC to Mr.P. Mani, Advocate sr 43014

Tr.C.M.P. No.836 of 2016
and CMP.No.20551 of 2016

KGK(CO)
sp(18/07/2017)