

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 19.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE J.NISHA BANU

Tr.C.M.P(MD)No.392 of 2017
and
C.M.P(MD)No.8018 of 2017

Jayaparvathi

... Petitioner/Petitioner

Vs.

Rajan Babu

... Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the Divorce Petition in H.M.O.P.No.175 of 2017 on the file of the Sub-Court at Theni and transfer the same to the Sub-Court at Poonamallee, Chennai.

For Petitioner

: Mr.Jesus Moris Ravi

For Respondent

: No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the Divorce Petition in H.M.O.P.No.175 of 2017 from the file of the Sub Court at Theni and transfer the same to the file of the Sub-Court at Poonamallee, Chennai.

2.The petitioner would among other things aver that the marriage between the petitioner and the respondent was solemnized on 19.02.2010 as per Hindu Rites and Customs. At the time of marriage, since the respondent was working at SRM University, Ramapuram, Chennai and the petitioner was working at VPMM Arts and Science College, Krishnan Kovil, Srivillipphthur, the respondent wanted the petitioner to continue the job until she gets better opportunity in Chennai. Therefore, the petitioner continued her work at VPMM Arts and Science College, Krishnankovil and stayed at the college hostel. Thereafter, as per the advise of the respondent, the petitioner studied at Parasakthi Ladies Arts College at Kutralam and stayed along with her parents at Thenkasi and the respondent also used to visit the petitioner frequently, whenever it was convenient for him. Out of the wedlock, they have been blessed with a female child on 23.02.2011. After completing her studies, the petitioner got a job at Holy Cross Matriculation Higher Secondary School, Valasaravakkam and therefore, the respondent took her to Chennai and thereafter, they started their matrimonial life at Ramapuram, Chennai and thereafter, the



petitioner also got employment at SRM University, Ramapuram, Chennai.

3. The petitioner would further aver that difference of opinion arose between the petitioner and the respondent. Therefore, the respondent filed a petition for divorce in H.M.O.P.No.175 of 2017 by raising vexatious allegations and the same is pending.

4. The learned counsel for the petitioner submitted that the petitioner is working at Chennai and only to harass the petitioner, the respondent has filed the above petition at Theni, which is his native place. He further submitted that the petitioner has to take care of her female child and she being a lady it is difficult for her to go and attend the hearing in the Court at Theni. Therefore, she prayed for transfer of H.M.O.P.No.175 of 2017 pending on the file of the Sub-Court, Theni to the file of the Sub-Court at Poonamallee, Chennai.

5. Heard the learned counsel appearing for the petitioner. Though notice has been served on the respondent, he has neither appeared in person nor through counsel.

6. It is well settled law that whenever, a 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. In view of the above judgement and also taking into consideration of the fact that the respondent has also not chosen to appear before this Court, I am of the view that the petition filed by the wife is liable to be allowed.

8. In the result, this Transfer Civil Miscellaneous Petition is allowed with the following directions:

i) The learned Sub-Judge, Theni, is directed to transmit the entire records in H.M.O.P.No.175 of 2017 to the file of the Sub-Court at Poonamallee, Chennai, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Judge, Sub-Court at Poonamallee, Chennai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.175 of 2017 as expeditiously as possible in accordance with law.



No Costs.
closed.

Consequently, connected Miscellaneous Petition is

Sd/-

Assistant Registrar (CS-I)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Judge, Theni.

2. The Sub-Judge, Poonamallee, Chennai.

+1cc to M/S.P.JESUS MORIS RAVI, Advocate SR.No.79564

pm

MAS/JC/SAR2:03.10.2017:3P-4C

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