

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.1001 of 2017
and C.M.P.No.20290 of 2017

Ramya

.. Petitioner

Vs.

Manojkumar

.. Respondent

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.83 of 2017 pending on the file of the Sub Court, Tittagudi and transfer the same to the file of the Sub Court, Gingee to be tried along with H.M.O.P.No.3 of 2016 pending on its file.

For Petitioner : Ms.R.Meenal

For Respondent : No Appearance

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.83 of 2017 pending on the file of the Sub Court, Tittagudi and transfer the same to the file of the Sub Court, Gingee to be tried along with H.M.O.P.No.3 of 2016 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 10.06.2012 as per Hindu Rites and Customs. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the petitioner filed H.M.O.P.No.3 of 2016 before the Sub Court at Gingee for restitution of conjugal rights against the respondent. The respondent filed H.M.O.P.No.83 of 2017 before the Sub Court at Tittagudi for divorce against the petitioner.

3.According to the petitioner, she is residing at Gingee along with her parents. The distance between Melmarayanur, Gingee and Tittagudi is 140 kms and hence, it will be very difficult for her to travel from her residence to Tittagudi for each and every hearing. Further, if H.M.O.P.No.3 of 2016 filed by the petitioner and H.M.O.P.No.83 of 2017 filed by the respondent is decided by two different Courts, conflicting decisions will be arrived. For the above reason, the petitioner is seeking to transfer H.M.O.P.No.83 of 2017 from the file of the Sub Court, Tittagudi to the file of the Sub

Court, Gingee to be tried along with H.M.O.P.No.3 of 2016 pending on its file.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.

5.Considering the above contention of the learned counsel for the petitioner that conflicting decisions will be arrived at if the H.M.O.Ps are tried by two different Courts and well settled judicial pronouncement of 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], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.83 of 2017 is ordered to be withdrawn from the file of the Sub Court, Tittagudi and transferred to the file of the Sub Court, Gingee to be tried along with H.M.O.P.No.3 of 2016 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Tittagudi is directed to transmit all the records pertaining to H.M.O.P.No.3 of 2016 to the file of the Sub Court, Gingee within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

gsa
To

- 1.The Subordinate Judge, Gingee.
- 2.The Subordinate Judge, Tittagudi.

+ 1 cc to Mr. R. Meenal, Advocate Sr.43795

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(CS-IX)

EU (02/08/2018)

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