

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.Nos.1003 of 2017 and 168 of 2018
and C.M.P.No.20343 of 2017

Tr.C.M.P.No.1003 of 2017

D.Nishanthi @ Nancy ... Petitioner

Vs.

Anthony Suresh Paul ... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw O.P.No.2062 of 2017 pending on the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Family Court, Tiruvallur.

For Petitioner : Mr.Chirstopher Kishore Vincent

For Respondent : Mr.T.Ramachandran

Tr.C.M.P.No.168 of 2018

V.Antony Suresh Paul ... Petitioner

Vs.

D.Nishanthi @ Nancy ... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.26 of 2016 pending on the file of the Family Court, Tiruvallur and transfer the same to the file of the VII Additional Family Court, Chennai, to try along with O.P.No.2062 of 2017 pending on its file.

For Petitioner : Mr.T.Ramachandran

For Respondent : Mr.Chirstopher Kishore Vincent
for M/S.Vincent and Vincent

C O M M O N O R D E R

Tr.C.M.P.No.1003 of 2017 is filed by the wife to withdraw O.P.No.2062 of 2017 pending on the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Family Court, Tiruvallur.

Tr.C.M.P.No.168 of 2018 is filed by the husband to withdraw I.D.O.P.No.26 of 2016 pending on the file of the Family Court, Tiruvallur and transfer the same to the file of the VII Additional Family Court, Chennai, to try along with O.P.No.2062 of 2017 pending on its file.

2.According to the wife, she has filed I.D.O.P.No.26 of 2016 on the file of the Family Court, Tiruvallur, for restitution of conjugal rights. The husband has filed O.P.No.2062 of 2017 on the file of the VII Additional Family Court, Chennai, for dissolution of marriage knowing fully well that she has filed I.D.O.P.No.26 of 2016 before the Family Court, Tiruvallur. The petitioner is residing at Tiruvallur. The distance between Tiruvallur and Chennai is more than 40 kilometers and it will be very difficult for her to appear before the Family Court, Chennai, for each and every hearing.

3.The learned counsel appearing for the wife submitted that I.D.O.P.No.26 of 2016 filed by the wife has already been allowed and decree of restitution of conjugal rights has been granted.

4.According to the husband, wife is not residing at Tiruvallur, but she is residing only at Palavakkam, Chennai. She has given false address as though she is residing at Tiruvallur and filed I.D.O.P.No.26 of 2016 before the Family Court, Tiruvallur.

5.The learned counsel for the husband submitted that it will be very difficult for him to travel from Chennai to Tiruvallur to attend the Court proceedings for each and every hearing.

6.Heard the learned counsel for the wife as well as the husband and perused the materials available on record.

7.According to the wife, she is residing at Tiruvallur, while according to the husband, the wife is not residing at Tiruvallur and she is residing only at Palavakkam, Chennai. This issue can be decided only on consideration of evidence let in by the parties.

8.Considering the contentions of the learned counsel for the wife as well as husband 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.

9. Accordingly, Tr.C.M.P.No.1003 of 2017 filed by the wife is ordered. The petition in O.P.No.2062 of 2017 filed by the husband is ordered to be withdrawn from the file of the VII Additional Family Court, Chennai and transferred to the file of the Family Court, Tiruvallur. The learned VII Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to O.P.No.2062 of 2017 to the file of the Family Court, Tiruvallur, within a period of two weeks from the date of receipt of a copy of this order. In view of the contention of the learned counsel for the wife that I.D.O.P.No.26 of 2016 filed by the wife has already been allowed and no O.P. is pending, Tr.C.M.P.No.168 of 2018 filed by the husband is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The VII Additional Judge, Family Court, Chennai.

2.The Judge, Family Court, Tiruvallur.

+2cc to Mr.T.Ramachandran, Advocate Sr.No.35215, 35216

KS(CO)

sm:26.6.2018

Tr.C.M.P.Nos.1003 of 2017 and 168 of 2018
and C.M.P.No.20343 of 2017

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