

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1022 of 2017

and C.M.P.No.20856 of 2017

Deepalakshmi

... Petitioner

..Vs..

Muralidharan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.80 of 2017 pending on the file of Subordinate Court, Attur and transfer the same to Subordinate Court, Tiruvannamalai to try along with H.M.O.P.No.184 of 2017.

For Petitioner : Mr.B.Jawahar

For Respondent : Mrs.S.P.Arthi

O R D E R

This petition is filed to withdraw H.M.O.P.No.80 of 2017 on the file of Sub Court, Attur and transfer the same to the file of Sub Court, Tiruvannamalai, to try along with H.M.O.P.No.184 of 2017 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 06.03.2016 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Chennai. The respondent neglected the petitioner and was living with one Vijayalakshmi, for which a complaint was lodged before the All Women Police Station at Mamallapuram. The respondent filed H.M.O.P.No.80 of 2017 on the file of the Subordinate Court, Attur, seeking divorce. The petitioner filed H.M.O.P.No.184 of 2017 before the Subordinate Court, Tiruvannamalai, against the respondent for restitution of conjugal rights. The petitioner also filed M.C.No.7 of 2017 before the Judicial Magistrate-I, Thiruvannamalai seeking maintenance.

3.According to the petitioner, she is staying with her parents at Tiruvannamalai. The distance between Chennai and Tiruvannamalai is nearly 150 kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings at Attur. Further, she is not having any independent income for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.80 of 2017 pending on the file of the Sub Court, Attur, to the file of the Sub Court, Tiruvannamalai, to try along with H.M.O.P.No.184 of 2017 pending on its file.

4.The learned counsel for the respondent submitted that the respondent is residing in Attur, Salem District and it will be very difficult for him to travel from Salem to Tiruvannamalai to attend the Court proceedings. He also submitted that the petitioner is residing in Chennai only and in order to drag on the proceedings, the petitioner has come out with this petition and prayed for dismissal of the transfer petition.

5.Heard the learned counsel for the petitioner and perused the materials available on record.

6.Considering the above contention of the learned counsel for the petitioner as well as the respondent 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.80 of 2017 is ordered to be withdrawn from the file of the Sub Court, Attur and transferred to the file of the Sub Court, Tiruvannamalai, to be tried along with H.M.O.P.No.184 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Attur, is directed to transmit all the records pertaining to H.M.O.P.No.80 of 2017 to the file of the Sub Court, Tiruvannamalai, 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/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Attur.

2.The Subordinate Judge, Tiruvannamalai

+1cc to Mr.B.Jawahar, Advocate SR.NO..49575

+1cc to Mr.S.P.Arthi, Advocate SR.NO.49656

BR(CO)

sm:16.8.2018