

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1026 of 2017
and C.M.P.No.20861 of 2017

S.Puvana

... Petitioner

Vs.

J.Sakthivel

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.108 of 2017 pending on the file of the Sub Court, Cheyyar and transfer the same to the file of the Principal Family Court, Chennai.

For Petitioner : Mr.A.M.Ayyadurai
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.108 of 2017 pending on the file of the Sub Court, Cheyyar and transfer the same to the file of the Principal Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 31.08.2011 as per Hindu rites and customs. After marriage, both the petitioner and the respondent were living together in the matrimonial home at Punnai Village, Vandavasi. Thereafter, the petitioner and respondent were living in a rented house at Chennai. Due to torture and harassment made by the respondent, his parents and sisters, the petitioner has left the matrimonial home. The respondent filed H.M.O.P.No.108 of 2017 on the file of the Sub Court, Cheyyar, for divorce against the petitioner.

3.According to the petitioner, she is residing at Chennai along with her aged parents. The distance between Chennai and Cheyyar is more than 100 kilometers and hence it will be very difficult for her to travel such a long distance to attend each and every hearing at Cheyyar. Further, she is not having any independent income to meet out the day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.108 of 2017 pending on the file of the Sub Court, Cheyyar, to the file of the Principal Family Court, Chennai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Notice sent to the respondent through Court was returned with an endorsement as 'refused'. This Court directed the Registry to print the name of the respondent in the cause list. Though the name of the respondent is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

5.Considering the above contention of the learned counsel for the petitioner 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.108 of 2017 is ordered to be withdrawn from the file of the Sub Court, Cheyyar and transferred to the file of the Principal Family Court, Chennai. The learned Subordinate Judge, Cheyyar, is directed to transmit all the records pertaining to H.M.O.P.No.108 of 2017 to the file of the Principal Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

LPP/kj

To

- 1.The Subordinate Judge, Cheyyar.
 - 2.The Principal Judge, Principal Family Court, Chennai.
- + 1 cc to MR. A.M. Ayyadurai, Advocate SR.37250

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(CCC)
EU(03/07/2018)