

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.1029 and 1030 of 2017

and C.M.P.Nos.20936 and 20937 of 2017

Dr.T.Suganya

... Petitioner
in both Tr.C.M.Ps.

Vs.

S.Shankara Narayanan

.... Respondent in both
Tr.C.M.Ps.

COMMON PRAYER:- Petitions are filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017 pending on the file of the Family Court, Erode and transfer the same to the file of the Principal Judge, Family Court, Chennai.

For Petitioner : Mr.R.Abdul Mubeen

For Respondent : Mr.M.D.Krishna Pradeep
for Mr.N.Damodaran

C O M M O N O R D E R

These petitions are filed to withdraw H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017 pending on the file of the Family Court, Erode and transfer the same to the file of the Principal Family Court, Chennai.

2.The issues and the parties involved in both the Transfer Civil Miscellaneous Petitions are one and the same and therefore, they are disposed of by this common order.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 28.11.2014 as per Hindu Rites and Customs. In the wedlock, a male child was born on 22.10.2015. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.53 of 2017 before Family Court, Erode for divorce on the ground of cruelty. The petitioner filed F.C.O.P.No.180 of 2017 for restitution of conjugal rights on the file of the Family Court, Erode.

4. In both the cases, counter statement was filed by both the petitioner as well as respondent and the petitions are posted for enquiry. While so, the petitioner has been transferred to Chennai and she is staying at IOG, P.G. Hostel and pursuing her higher studies and working in the Government Hospital as Post Graduate, DGOP in Institute of obstetrics and Gynaecology, Egmore, Chennai 600 008. She is staying in a ladies hostel. The distance between Erode and Chennai is more than 300 Kms. It is very difficult for the petitioner to travel from Chennai to Erode to attend each and every Court proceedings before the Family Court at Erode. In the circumstances, she has filed the present two Transfer Civil Miscellaneous Petitions to transfer H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017, both pending on the file of the Family Court, Erode to the file of the Principal Family Court, Chennai.

5. The learned counsel for the respondent submitted that the respondent is working at Primary Health Centre, Erode and it will be very difficult for him to travel to Chennai and he will be put to hardship if both H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017 are transferred to Principal Family Court, Chennai. Both H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017 are posted for enquiry and only to drag on the proceedings, the petitioner has come out with the present two Transfer Civil Miscellaneous Petitions and prayed for dismissal of the same.

6. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

7. It is not in dispute that after filing F.C.O.P.No.180 of 2017, the petitioner was transferred to Chennai and she is pursuing her higher studies and working in the Government Hospital as Post Graduate, DGOP in Institute of obstetrics and Gynaecology, Egmore, Chennai 600 008 and is residing at Chennai. The contention of the learned counsel for the petitioner that it will be difficult for her to travel from Chennai to Erode has considerable force.

8. Considering the submissions of the learned counsel for the petitioner as well as the 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.

9. Accordingly, the Transfer Civil Miscellaneous Petitions are ordered. The petitions in H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017 are ordered to be withdrawn from the file of the Family Court, Erode and transferred to the file of the Principal Family Court, Chennai. The learned Judge, Family Court, Erode is directed to transmit all the records pertaining to H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017 to the file of the Principal Judge, Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

10. The grievance of the respondent is that only to drag on the proceedings, the petitioner has come out with the present Transfer Civil Miscellaneous Petitions, when both H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017 are posted for enquiry. In view of the said contention of the learned counsel for the respondent, the learned Judge, Family Court, Chennai on receipt of all the records pertaining to H.M.O.P.No.53 of 2017 and F.C.O.P.No.180 of 2017, is directed to dispose of the same as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Principal Judge, Family Court, Chennai

2. The Judge, Family Court, Erode.

+1cc to Mr.N.DAMODARAN, Advocate, S.R.No.34875

+1cc to Mr.R.ABDUL MUBEEN, Advocate, S.R.No.34789

Tr.C.M.P. Nos.1029 and 1030 of 2017
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TR(25/06/2018)