

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1054 of 2017
and C.M.P.No.21514 of 2017

Preetha ... Petitioner

Vs.

K.Mahendran Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw M.O.P.No.491 of 2017 pending on the file of the Family Court, Puducherry and transfer the same to the file of the Family Court, Karaikal.

For Petitioner : M/s.N.U.Prasanna

For Respondent : Mr.P.Veeraraghavan

ORDER

This petition is filed to withdraw M.O.P.No.491 of 2017 pending on the file of the Family Court, Puducherry and transfer the same to the file of the Family Court, Karaikal.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.06.2016 as per Hindu Rites and Customs at P.A.S. Kalyana Mandapam, Karaikal. The parents of the respondent is residing at Puducherry. The respondent is working in a private concern at Chennai. According to the petitioner, at the time of marriage, the parents of the respondent assured that they would set up the matrimonial home at Chennai for the petitioner and respondent to reside. Contrary to the said promise, they failed to arrange any matrimonial home at Chennai. The respondent insisted the petitioner to stay with his parents at Puducherry and that he would visit her at Puducherry.

3. According to the petitioner, she is now residing at Madagadi, Karaikal along with her parents. The distance between Karaikal and Puducherry is 200 Kms and hence it is very difficult for her to travel from Karaikal to Puducherry to attend the proceedings before the Family Court at Puducherry.

4. The respondent filed counter affidavit. The learned counsel for the respondent contended that the respondent is working at Maersk Global Services Centre, Chennai. The petitioner is pursuing her Ph.d Course at Puducherry and often she comes to Puducherry. In spite of the same, she refuses to stay along with the parents of the respondent. It will be difficult for the respondent to travel to Karaikal to attend the proceedings. The parents of the petitioner are influential persons and they will foist false cases against the respondent if he goes to Karaikal and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

5. The admitted facts are that the respondent is working and residing at Chennai. The petitioner is residing at Karaikal. M.O.P.No.491 of 2017 filed by the respondent for dissolution of marriage is pending on the file of the Family Court, Puducherry. The contention of the learned counsel for the respondent is that, it will be very difficult for the respondent to travel to Karaikal to attend each and every Court proceedings and if M.O.P.No.491 of 2017 is transferred to Family Court at Karaikal, false cases may be foisted on the respondent by the parents of the petitioner. Both the contentions are untenable. The respondent has to travel from Chennai to Puducherry to attend the hearings before the Family Court at Puducherry. In such a case, it will not be difficult for him to travel to Karaikal instead of Puducherry. Further, the contention of the respondent that false cases may be foisted on him if he goes to Karaikal is only mere apprehension.

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

7. Considering 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.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in M.O.P.No.491 of 2017 is ordered to be withdrawn from the file of the Family Court, Puducherry and transferred to the file of the Family Court, Karaikal. The learned Judge, Family Court, Puducherry, is directed to transmit all the records pertaining to M.O.P.No.491 of 2017 to the file of the Family Court, Karaikal, 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 IX)

//True Copy//

Sub Assistant Registrar

gsa

To

- 1.The Judge,
Family Court,
Puducherry.
- 2.The Judge,
Family Court,
Karaikal.

+1cc to Mr.P.Veeraraghavan, Advocate Sr.34544
+1cc to M/S.Sai Bharath & Ilan, Advocate Sr.34642

Tr.C.M.P. No.1054 of 2017
and C.M.P.No.21514 of 2017

br[co]
srg 19/06/2018