

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1075 of 2017
and C.M.P.No.22207 of 2017

S.Queen Gnana Priya

... Petitioner

Vs.

P.Samson

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer the case in F.C.I.D.O.P.No.76 of 2017 from the file of Family Court at Chengalpattu to the file of learned Principal District Judge at Tiruvallur.

For Petitioner : M/s.C.Srinivasan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw and transfer the case in F.C.I.D.O.P.No.76 of 2017 from the file of Family Court at Chengalpattu to the file of learned Principal District Judge at Tiruvallur.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 07.03.2011 at St. Patrick's Church, Butt Road, St.Thomas Mount, Chennai, as per Christian rites and customs. In the wedlock, two children were born namely S.Shauna Phylcia and S.Gotzan Arocckia Peter, aged 5 yrs. and 3 months respectively. Due to difference of opinion, both the petitioner and the respondent are living separately. While so, the respondent filed F.C.I.D.O.P.No.76 of 2017 on the file of the Family Court, Chengalpet, for divorce, in order to harass the petitioner.

3. According to the petitioner, she is residing at Chennai and hence, it is difficult for her to travel from Chennai to Chengalpet alongwith her 3 months child for each and every hearing. Further she has no independent income to meet out the travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. for transfer of F.C.I.D.O.P.No.76 of 2017 from the file of the Family Court, Chengalpet to the file of the Principal District Court, Tiruvallur.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

5. It is well settled law that whenever the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by 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]. Further as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6. Having regard to the submissions made by the learned counsel for the petitioner and the decisions of the Hon'ble Apex Court referred to above and the residence of the petitioner is in Chennai, the petition in F.C.I.D.O.P.No.76 of 2017 is ordered to be withdrawn from the file of the Family Court, Chengalpet and transferred to the file of the Principal District Court, Tiruvallur. The learned Family Court Judge, Chengalpet, is directed to transmit all the records pertaining to F.C.I.D.O.P.No.76 of 2017 to the file of the Principal District Court, Tiruvallur, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

rgr
To

1. The Judge, the Family Court,
Chengalpet.

2. The Judge, Principal District Court,
Tiruvallur.

+ 1 cc to Mr.C. Srinivasan, Advocate Sr.25844

Tr.C.M.P. No.1075 of 2017
and C.M.P.No.22207 of 2017

KJI (CO)
EU (28/04/2018)

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