

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1083 of 2017
and C.M.P.No.22313 of 2017

K.Lissi ... Petitioner/Respondent
Vs.
Shivkar @ M.Karthikeyan ... Respondent

Prayer:- Writ Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.458 of 2017 pending on the file of Family Court, Salem and transfer the same to the file of Family Court at Chengalpattu, Kanchipuram District.

For Petitioner : Mr.S.P.Parvadhraj Arumugam
For Respondent : Mr.K.Prabakar

O R D E R

This petition is filed to withdraw F.C.O.P.No.458 of 2017 pending on the file of Family Court, Salem and transfer the same to the file of Family Court at Chengalpattu, Kanchipuram District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 04.06.2015 as per Hindu rites and customs. In the wedlock, a male child was born on 05.03.2016. The respondent tortured the petitioner by demanding dowry and thrown her out from the matrimonial home. While so, the respondent filed F.C.O.P.No.458 of 2017 on the file of Family Court, Salem for restitution of conjugal rights.

3.According to the petitioner, she is residing at Paiyanur, Kanchipuram District along with her mother and minor child. She is not having any independent income and depending on her mother for maintaining herself and the minor child. The distance between Chengalpattu and Salem is more than 550 kilometers to and fro and hence, it will be very difficult for her to travel such a long distance to attend each and every hearings of the Court proceedings at Family Court, Salem. In the

circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer F.C.O.P.No.458 of 2017 pending on the file of Family Court, Salem to the file of Family Court at Chengalpattu, Kanchipuram District.

4.The learned counsel for the respondent submitted that the respondent is residing at Salem. It will be very difficult for him to travel from Salem to Chengalpattu to attend each and every hearing and prayed for dismissal of the Transfer Civil Miscellaneous Petition. He also prayed for speedy disposal of F.C.O.P.No.458 of 2017 pending on the file of the Family Court, Salem District.

5.Heard the learned counsel for the petitioner as well as the respondent 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 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in F.C.O.P.No.458 of 2017 is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of Family Court at Chengalpattu, Kanchipuram District. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to F.C.O.P.No.458 of 2017 to the file of the Family Court at Chengalpattu, Kanchipuram District, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Judge, Family Court, Chengalpattu, Kanchipuram District is directed to dispose of F.C.O.P.No.458 of 2017 within a period of six months thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

gsa

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Judge, Family Court, Salem.

2.The Judge, Family Court,
Chengalpattu,
Kanchipuram District.

+1 CC TO MR.K.PRABHAKAR Advocate SR.NO.45791

+2 CC TO Mr.S.P.Parvadhraj Arumugam Advocate
SR.NO.43785,45059

Tr.C.M.P. No.1083 of 2017
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MR (CO)

ASK (07/08/2018)



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