

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1103 of 2017
and C.M.P.No.22760 of 2017

D.Nithya

... Petitioner

Vs.

D.Aravind

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1163 of 2017 pending on the file of the Principal Family Court, Coimbatore and transfer the same to the file of the Family Court, Vellore.

For Petitioner : Mr.K.Chandrasekaran
for Mr.I.Jenkins William
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.1163 of 2017 pending on the file of the Principal Family Court, Coimbatore and transfer the same to the file of the Family Court, Vellore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 15.11.2013 as per Hindu rites and customs. After marriage, both the petitioner and the respondent were living together in the matrimonial home at Coimbatore. Due to difference of opinion, the petitioner and respondent are living separately. The petitioner is working and residing along with her parents at Vellore. In the mean while, she met with an accident and she was taking treatment continuously. While so, the respondent filed H.M.O.P.No.1163 of 2017 on the file of the Principal Family Court, Coimbatore, for restitution of conjugal rights.

3.According to the petitioner, the distance between Vellore and Coimbatore is more than 350 kilometers. Being a lady, it will be very difficult for her to travel such a long distance to attend each and every Court proceedings at Coimbatore. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.1163 of 2017 pending on the file of the Principal

Family Court, Coimbatore, to the file of the Family Court, Vellore.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation on behalf of the respondent 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.1163 of 2017 is ordered to be withdrawn from the file of the Principal Family Court, Coimbatore and transferred to the file of the Family Court, Vellore. The learned Judge, Principal Family Court, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.1163 of 2017 to the file of the Family Court, Vellore, 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 V)

//True copy//

Sub Assistant Registrar

LPP/gsa

To

- 1.The Judge, Principal Family Court, Coimbatore.
- 2.The Judge, Family Court, Vellore.

+2cc to Mr.I.Jenkins William, Advocate SR.No.35699

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PA (CO)
GN(26/06/2018)