

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:03.04.2018
CORAM
THE HONOURABLE MS. JUSTICE V.M.VELUMANI
Tr.C.M.P. No.408 of 2017
and C.M.P.No.8611 of 2017

Indhumathi

... Petitioner

Vs.

Jagatheesh

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1449 of 2015 pending on the file of the Family Court, Coimbatore and transfer the same to the file of the Subordinate Court, Tiruppur to be tried along with H.M.O.P.No.35 of 2017 on the file of the Subordinate Court, Tiruppur.

For Petitioner : Mr.R.Prabakar

For Respondent : M/s.P.Suresh Babu
P.Chandran

O R D E R

This petition is filed to withdraw H.M.O.P.No.1449 of 2015 pending on the file of the Family Court, Coimbatore and transfer the same to the file of the Subordinate Court, Tiruppur to be tried along with H.M.O.P.No.35 of 2017 pending on the file of the Subordinate Court, Tiruppur.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 08.09.2014 at Arulmigu Bannariamman Temple, Erode District. After marriage, both the petitioner and respondent were living in the matrimonial home at Coimbatore. Thereafter the respondent ill treated the petitioner and thrown her out of the matrimonial home during the month of May 2015 and she is now residing at Tiruppur along with her parents. The respondent filed H.M.O.P.No.1449 of 2015 on the file of the Family Court, Coimbatore for restitution of conjugal rights, making false allegations against the petitioner. The petitioner filed H.M.O.P.No.35 of 2017 before the Subordinate Court, Tiruppur for divorce against the respondent and the same is pending.

3.According to the petitioner, she is residing in Tiruppur along with her aged parents and being a lady, it is very difficult for her to attend Court proceedings in Coimbatore for each and every hearing. She is not having any independent income. She is depending on her parents for her day-to-day expenses. In the circumstances, she has filed the

present Transfer Civil Miscellaneous Petition.

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

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, the 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 fact that the residence of the petitioner is at Tiruppur, the petition in H.M.O.P.No.1449 of 2015 is ordered to be withdrawn from the file of the Family Court, Coimbatore and transferred to the file of Subordinate Court, Tiruppur to be tried along with H.M.O.P.No.35 of 2017 in the interest of justice, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Family Court Judge, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.1449 of 2015 to the file of the Subordinate Court, Tiruppur, 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/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Family Judge,
Coimbatore.

2. The Subordinate Judge,
Tiruppur.

+1cc to Mr.R.Prabakar, Advocate Sr.No.24806

+1cc to MR.P.Suresh Babu, Advocate SR.No.25016

sm:19.4.2018

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