

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.542 of 2017
and C.M.P.No.10982 of 2017

G.Archana

.. Petitioner

Vs.

M.Rajeswaran

.. Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.50 of 2017 pending on the file of the Sub Court, Aruppukottai and transfer the same to the file of the Sub Court, Tiruppur.

For Petitioner : Mr.K.Shivakumar

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.50 of 2017 pending on the file of the Sub Court, Aruppukottai and transfer the same to the file of the Sub Court, Tiruppur.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 21.08.2016. After marriage, they were living together in the matrimonial home at Tiruchuzhi Taluk, Virudhungan District. Unable to bear torture of the respondent, the parents of the petitioner took her from the matrimonial home to their house. The petitioner was in advanced stage of pregnancy and the delivery date of the child was fixed on 15.06.2017. While so, the respondent filed H.M.O.P.No.50 of 2017 on the file of the Sub Court, Aruppukottai against the petitioner, for restitution of conjugal rights, making false allegations against her.

3.According to the petitioner, she is residing at Tiruppur District along with her parents. The distance between Tiruppur and Aruppukottai is more than 245 kms and being a lady, it will be difficult for her to travel such a long distance. In the circumstances, she has filed the present Transfer Civil

Miscellaneous Petition to Transfer H.M.O.P.No.50 of 2017 pending on the file of the Sub Court, Aruppukottai to the file of the Sub Court, Tiruppur.

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 for him 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.50 of 2017 is ordered to be withdrawn from the file of the Sub Court, Aruppukottai and transferred to the file of the Sub Court, Tiruppur. The learned Subordinate Judge, Aruppukottai, is directed to transmit all the records pertaining to H.M.O.P.No.50 of 2017 to the file of the Sub Court, Tiruppur 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

To

1.The Subordinate Judge,
Tiruppur.

2.The Subordinate Judge,
Aruppukottai.

+lcc to Mr.K.Shivakumar, Advocate sr.no.35774

Tr.C.M.P.No.542 of 2017
and C.M.P.No.10982 of 2017

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