

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.547 of 2017
and C.M.P.No.11222 of 2017

Priya ... Petitioner/Respondent

Vs.

Sivagnanam ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.30 of 2017 pending on the file of the Subordinate Court, Maduranthagam and transfer the same to the file of the Subordinate Court, Ranipet.
(Prayer amended vide Court order dated 18.01.2018 made in C.M.P.No.6/2018 in Tr.C.M.P.No.547/2017)

For Petitioner : M/s.R.Sakunthala

For Respondent : Mr.K.Govi Ganesan

ORDER

This petition is filed to withdraw H.M.O.P.No.30 of 2017 pending on the file of the Subordinate Court, Maduranthagam and transfer the same to the file of the Subordinate Court, Ranipet.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 07.06.2012 at Navarathina Mahal in Maduranthagam, Kancheepuram District as per Hindu rites and customs. After marriage, both the petitioner and respondent lived in the matrimonial home at Madhuranthakam. In the wedlock a male child was born in the year 2014. The respondent demanded dowry and thrown the petitioner out from the matrimonial home. Petitioner is residing now at Vilapakkam along with her parents and minor child. All the efforts taken by the relatives of the petitioner for reunion went in vain. The respondent filed a petition in H.M.O.P.No.30 of 2017 for restitution of conjugal rights on the file of the Subordinate Court, Madhuranthagam.

3. According to the petitioner, she is residing at Arcot Town, Vellore District along with her parents and minor child. She filed M.C.No.8 of 2016 under Section 125 of Cr.P.C, claiming maintenance for herself and minor child and the same is pending before the District Munsif Court cum Judicial Magistrate Court, Arcot. The distance between Vellore and Maduranthagam is more than 150 kms. It is very difficult for her to travel such a long distance along with her minor child to attend the Court proceedings at Madhuranthagam. The petitioner is not having any independent income to maintain herself and minor child and also to meet the day-to-day expenses, including traveling expenses. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.30 of 2017 pending on the file of the Subordinate Court, Madhuranthagam to Subordinate Court, ***Ranipet**.

4. When the matter is taken up for hearing, the learned counsel for the respondent prayed for speedy disposal of H.M.O.P.No.30 of 2017 pending on the file of the Subordinate Court, Madhuranthagam.

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

6. 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 the residence of wife must be taken into account.

7. Having regard to the submissions made by the learned counsel for the petitioner as well as the respondent and the decisions of the Hon'ble Apex Court referred to above and the residence of the petitioner at Arcot town, the petition in H.M.O.P.No.30 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Madhuranthagam and transferred to the file of the Subordinate Court, ***Ranipet**. The learned Subordinate Judge, Madhuranthagam is directed to transmit all the records pertaining to H.M.O.P.No.30 of 2017 to the file of the Subordinate Court, ***Ranipet**, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Subordinate Judge, ***Ranipet** is directed to dispose of H.M.O.P.No.30 of 2017 on merits and in accordance with law, as expeditiously as possible, in any way, not later than six months from thereafter.

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

Sd/-

Assistant Registrar (CS-IX)

dt.19.4.2018

*Corrected as per order dt.20.6.18
and made in Tr.CMP.No.547/17 and
CMP.No.11222/17

Sd/-

Assistant Registrar (CS IX)

dt.4.7.2018

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge,
Madhuranthagam.

2.The Subordinate Judge,
Vellore.

3. The Subordinate Judge, Vellore.

+ 1 cc to Mr. K. Gori Ganesan, Advocate SR.38909

+ 1 cc to Mr.T.P. Prabakaran, Advocate Sr.38590

To be substituted to the order
already despatched on 11.5.2018

Tr.C.M.P. No.547 of 2017
and C.M.P.No.11222 of 2017

SVI (CO)
EU (04/07/2018)
sm:4.7.2018

WEB COPY