IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.562 of 2017

and C.M.P.No.11542 of 2017

B.Haripriya ... Petitioner

Vs.

C.Rajiv Kanth ... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.2049 of 2017 pending on the file of the II Additional Family Court, Chennai and transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.A.K.Gopalan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.2049 of 2017 pending on the file of the II Additional Family Court, Chennai and transfer the same to the file of the Family Court, Madurai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 11.09.2013 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home in Chennai. In the wedlock, a female child was born on 01.01.2015. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.2049 of 2017 on the file of the II Additional Family Court, Chennai, for divorce against the petitioner making false allegations.

3. According to the petitioner, she is residing along with her parents and minor child. The distance between Madurai and Chennai is more than 500 kilometers and hence, it is very difficult for her to travel to attend the Court proceedings at Chennai. Further, she met with an accident and sustained grievous injuries and fracture in her leg. In the circumstances,

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the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.2049 of 2017 pending on the file of the II Additional Family Court, Chennai, to the file of the Family Court, Madurai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

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, 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 residence of the petitioner is at Madurai, the petition in H.M.O.P.No.2049 of 2017 is ordered to be withdrawn from the file of the II Additional Family Court, Chennai and transferred to the file of the Family Court, Madurai. The learned II Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.2049 of 2017 to the file of the Family Court, Madurai, 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/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

kj/LPP

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To
1.The II Additional Judge, Family Court, Chennai.

2.The Judge, Family Court, Madurai.

Tr.C.M.P. No.562 of 2017
and C.M.P.No.11542 of 2017

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