

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.564 of 2017

and C.M.P.No.11648 of 2017

M.Jayasri

... Petitioner

Vs.

P.Vinothkumar

.... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.72 of 2017 pending on the file of the Sub Court, Udumalpet and transfer the same to the file of the Family Court, Coimbatore.

For Petitioner : Mr.S.B.Viswanathan
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.72 of 2017 pending on the file of the Sub Court, Udumalpet and transfer the same to the file of the Family Court, Coimbatore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.06.2014 as per Hindu rites and customs. After marriage, both the petitioner and respondent were working in Coimbatore and were residing at Peelamedu, Coimbatore. In the wedlock, a male child was born on 25.03.2015. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.72 of 2017 on the file of the Sub Court, Udumalpet, for divorce on the ground of cruelty against the petitioner.

3.According to the petitioner, she is residing with her parents at Coimbatore along with her minor son. The distance between Coimbatore and Udumalpet is more than 75 kilometers and hence, it will be very difficult for her to travel such a long distance along with her minor son to attend the Court proceedings at Udumalpet. In the circumstances, the petitioner

has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.72 of 2017 pending on the file of the Sub Court, Udumalpet, to the file of the Family Court, Coimbatore.

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.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.72 of 2017 is ordered to be withdrawn from the file of the Sub Court, Udumalpet and transferred to the file of the Family Court, Coimbatore. The learned Subordinate Judge, Udumalpet, is directed to transmit all the records pertaining to H.M.O.P.No.72 of 2017 to the file of the Family Court, Coimbatore, 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

//True Copy//

Sub Assistant Registrar

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To

- 1.The Subordinate Judge, Udumalpet.
- 2.The Judge, Family Court, Coimbatore.

+1cc to Mr.S.Mohankumar, Advocate, S.R.No. 39979

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VBA (CO)
BM 10/07/2018