

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.571 of 2017

and C.M.P.No.12000 of 2017

Jothijayanthi

... Petitioner

Vs.

Ravikumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.353 of 2016 pending on the file of the Principal Subordinate Court, Tiruppur and transfer the same to the file of the Subordinate Court, Gobichettipalayam.

For Petitioner : Mr.A.Veerasingam

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.353 of 2016 pending on the file of the Principal Subordinate Court, Tiruppur and transfer the same to the file of the Subordinate Court, Gobichettipalayam.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.05.2015 as per Hindu rites and customs. In the wedlock, a female child was born on 26.05.2016. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.353 of 2016 on the file of the Principal Subordinate Court, Tiruppur, for restitution of conjugal rights against the petitioner making false allegations.

3.The petitioner filed detailed counter. According to the petitioner, she is residing at Gobichettipalayam along with her minor child. She lost her parents before the marriage itself. Hence, it is difficult for her to travel such a long distance to attend the Court proceedings at Tiruppur. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.353 of 2016 pending on the file of the Principal Subordinate Court, Tiruppur, to the file of the Subordinate Court, Gobichettipalayam.

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 Gobichettipalayam, the petition in H.M.O.P.No.353 of 2016 is ordered to be withdrawn from the file of the Principal Subordinate Court, Tiruppur and transferred to the file of the Subordinate Court, Gobichettipalayam. The learned Principal Subordinate Judge, Tiruppur, is directed to transmit all the records pertaining to H.M.O.P.No.353 of 2016 to the file of the Subordinate Court, Gobichettipalayam, 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-VIII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

kj
To

- 1.The Subordinate Judge, Gobichettipalayam.
- 2.The Principal Subordinate Judge, Tiruppur.

+1cc to Mr.M.NARAYASWAMY, Advocate, S.R.No. 28619

Tr.C.M.P. No.571 of 2017
and C.M.P.No.12000 of 2017

SG (CO)
TR(14/05/2018)