

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.578 of 2017
and C.M.P.No.12136 of 2017

Shanitha

... Petitioner/Respondent

Vs.

Shivaramakrishnan

... Respondent/Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.144 of 2017 pending on the file of the Family Court, Vellore and transfer the same to the file of the Sub-Court, Gudalur.

(Prayer amended vide order of this Court dated 24.04.2018 made in C.M.P.No.6691 of 2018 in Tr.C.M.P.No.578 of 2017)

For Petitioner : M/S.E.Malarkodi
For Respondent : Mr.M.Sathishkumar

O R D E R

This petition is filed to withdraw F.C.O.P.No.144 of 2017 pending on the file of the Family Court, Vellore and transfer the same to the file of the Sub-Court, Gudalur.

2.The petitioner is the wife and respondent is the husband and their marriage is love marriage and on 12.09.2005, it was registered as per the Special Marriage Act. They have a female child. After marriage, due to difference of opinion, the petitioner was driven out from the matrimonial home and she was living with her father at Gudalur. The respondent filed F.C.O.P.No.144 of 2017 on the file of the Family Court, Vellore, for dissolution of marriage against the petitioner.

3. According to the petitioner, she is residing at Gudalur along with her minor daughter and brother. The distance between Gudalur and Vellore is more than 400 kilometers and hence, it is very difficult for her to travel to attend the Court proceedings along with her minor daughter before the Family Court, Vellore, wherein presence of spouse is mandatory for each and every

hearing. Further, she is not having any independent income and she is depending on her brother for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer F.C.O.P.No.144 of 2017 pending on the file of the Family Court, Vellore, to the file of the Sub-Court, Gudalur.

4.The learned counsel appearing for the respondent contented that the petitioner is not residing at Gudalur and she is residing only in Karnataka along with her mother and prayed for dismissal of the transfer petition.

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

6.Considering the above contentions of the learned counsel for the petitioner as well as the respondent 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.

7.Accordingly, this Transfer Civil Miscellaneous petition is ordered. The petition in F.C.O.P.No.144 of 2017 is ordered to be withdrawn from the file of the Family Court, Vellore and transferred to the file of the Sub-Court, Gudalur. The learned Judge, Family Court, Vellore, is directed to transmit all the records pertaining to F.C.O.P.No.144 of 2017 to the file of the Sub-Court, Gudalur, 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.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1.The Judge, Family Court, Vellore.

2.The Subordinate Judge, Gudalur.

+1 CC to Mr. Thangavadana Balakrishnan, Advocate sr 31513.

+1 CC to Mr.M. Sathish Kumar, Advocate sr 32063.

Tr.C.M.P. No.578 of 2017
and C.M.P.No.12136 of 2017

VGI (CO)
SP(29/05/2018)



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