

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.587 of 2017
and C.M.P.No.12290 of 2017

Syamala

... Petitioner

Vs.

Raja

.... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.601 of 2017 pending on the file of the Subordinate Court, Tindivanam and transfer the same to the file of the Family Court, Puducherry.

For Petitioner : Mr.K.S.Karthik Raja
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.601 of 2017 pending on the file of the Subordinate Court, Tindivanam and transfer the same to the file of the Family Court, Puducherry.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 12.02.2003 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home in Puducherry. In the wedlock, two children were born. Due to difference of opinion between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.601 of 2017 on the file of the Subordinate Court, Tindivanam, for divorce making false allegations.

3.According to the petitioner, she is residing in Puducherry and working in Cuddalore. Hence, it is difficult for her to travel from Puducherry to Tindivanam to attend the Court proceedings for each and every hearing. She further stated that both the petitioner and respondent are residing in Puducherry. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.601 of 2017 from the file of the Subordinate Court, Tindivanam to the file of the Family Court, Puducherry.

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 the residence of the petitioner in Puducherry, the petition in H.M.O.P.No.601 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Tindivanam and transferred to the file of the Family Court, Puducherry. The learned Subordinate Judge, Tindivanam, is directed to transmit all the records pertaining to H.M.O.P.No.601 of 2017 to the file of the Family Court, Puducherry, 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.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Subordinate Judge
Tindivanam.

2.The Judge, Family Court, Puducherry.

+1 CC to Mr.K.S. Karthikraja, Advocate sr 25088.

Tr.C.M.P. No.587 of 2017
and C.M.P.No.12290 of 2017

MR(CO)
SP(25/04/2018)