

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.590 of 2017
and C.M.P.No.12315 of 2017

Selvi ... Petitioner/Respondent
Vs.

Sivakumar alias Vijayakumar Respondent/Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.210 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Principal District Court, Cuddalore.

For Petitioner : Mr.G.Rajan
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.210 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Principal District Court, Cuddalore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 03.02.2016 in the presence of Member of Legislative Assembly, Vridhachalam, wherein 100 marriages were solemnised. After marriage, both the petitioner and respondent were living together at Lalbahadur Sastri Nagar, Bangalore. The petitioner conceived twice and the respondent compelled the petitioner to abort the child. The petitioner unable to bear the cruelty committed by the respondent, left the matrimonial home. The respondent filed H.M.O.P.No.210 of 2017 on the file of the Additional Family Court, Coimbatore, for divorce making false allegations.

3.According to the petitioner, she is residing at Vridhachalam in Cuddalore District. The distance between Vridhachalam and Coimbatore is nearly about 300 kilometers. Hence, it is difficult for her to travel from Vridhachalam to Coimbatore to attend the Court proceedings for each and every hearing. She further stated that she is a poor woman and she is eking out her livelihood by working as house maid in some houses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.210 of 2017 from the file of the Additional Family Court, Coimbatore, to the file of the Principal District Court, Cuddalore.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through advocate, today there is no representation on behalf of the respondent.

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 Vrindhachalam, the petition in H.M.O.P.No.210 of 2017 is ordered to be withdrawn from the file of the Additional Family Court, Coimbatore and transferred to the file of the Principal District Court, Cuddalore. The learned Additional Family Judge, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.210 of 2017 to the file of the Principal District Judge, Cuddalore, 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-IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Additional Family Judge, Coimbatore.
2.The Principal District Judge, Cuddalore.
+ 1 cc to Mr.G. Rajan, Advocate Sr.28148
+ 1 cc to Mr. N. Sankarasabari,

Tr.C.M.P. No.590 of 2017
and C.M.P.No.12315 of 2017

SVI (CO)
EU(25/04/2018)