

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.691 of 2017
and C.M.P.No.13738 of 2017

Nithya Devi.R

.. Petitioner

Vs.

S.Manikandan

.. Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.47 of 2016 pending on the file of the Principal Sub Court, Mettur, Salem and transfer the same to the file of the Sub Court, Bhavani, Erode.

For Petitioner : Mr.K.Thilageswaran

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.47 of 2016 pending on the file of the Principal Sub Court, Mettur, Salem and transfer the same to the file of the Sub Court, Bhavani, Erode.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 18.11.2010 at Arulmigu Sri Subramaniyar Kovil, Mettur Dam-1, Mettur Taluk, Salem as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were residing in the matrimonial home at Salem. Demanding more dowry, the respondent and his family members thrown the petitioner out from the matrimonial home and the respondent filed H.M.O.P.No.47 of 2016 before the Sub Court, Mettur.

3.According to the petitioner, she is residing at Erode along with her aged mother. She is not having any independent income and depending on her aged mother for day-to-day expenses, including the traveling expenses. The distance between Erode and Mettur is more than 55 kms and it is very difficult for her to travel such a long distance to attend each and every Court proceedings. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.47 of 2016 pending on the file of the Sub Court, Mettur to the

file of the Sub Court, Bhavani, Erode District.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served and the respondent entered appearance through counsel, there is no representation for him.

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.47 of 2016 is ordered to be withdrawn from the file of the Sub Court, Mettur, Salem District and transferred to the file of the Sub Court, Bhavani, Erode District. The learned Subordinate Judge, Mettur, is directed to transmit all the records pertaining to H.M.O.P.No.47 of 2016 to the file of the Sub Court, Bhavani, Erode District, 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(CS-V)

True Copy

Sub-Assistant Registrar

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To

1.The Subordinate Judge,
Mettur,
Salem.

2.The Subordinate Judge,
Bhavani,
Erode.

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SP(13/06/2018)