

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.705 of 2017

and C.M.P.No.14284 of 2017

T.Vasuki

... Petitioner

Vs.

M.Prabhakaran

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.121 of 2016 pending on the file of the Subordinate Court, Thirupathur and transfer the same to the file of the Principal Family Court, Chennai.

For Petitioner : Mr.S.Kingston Jerold

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.121 of 2016 pending on the file of the Subordinate Court, Thirupathur and transfer the same to the file of the Principal Family Court, Chennai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 21.06.2004 as per Hindu rites and customs. Two children were born in the wed-lock. Due to difference of opinion between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.121 of 2016 for restitution of conjugal rights, on the file of the Subordinate Court, Thirupathur.

3. According to the petitioner, she is residing at Chennai along with her children and mother. The distance between Chennai and Thirupathur is more than 220 kilometres and hence, it is very difficult for her to travel from Chennai to Thirupathur to attend the hearing. Further, the petitioner has no independent income and she is depending on her mother to maintain her

children. Therefore, she prays for transfer of H.M.O.P.No.121 of 2016 from the file of the Subordinate Court, Thirupathur to the file of the Principal Family Court, Chennai.

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 has been printed in the cause list, there is no representation for 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].

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, the petition in H.M.O.P.No.121 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Thirupathur and transferred to the file of the Principal Family Court, Chennai. The learned Subordinate Judge, Thirupathur, is directed to transmit all the records pertaining to H.M.O.P.No.121 of 2016 to the file of the Principal Family Court, Chennai, 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-iii)

//True Copy//

Sub Assistant Registrar

gsa/kj

To

1.The Subordinate Judge, Thirupathur.

2.The Principal Family court Judge, Chennai.

+1cc to Mr.S.KINGSTON JEROLD, Advocate, S.R.No. 24227

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SVI (CO)
TR(17/04/2018)