

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.720 of 2017
and C.M.P.No.14621 of 2017

A.Annalakshmi

.. Petitioner

Vs.

R.M.Raj Kannan

.. Respondent

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw and transfer the H.M.O.P.No.48 of 2017 pending on the file of the Sub Court, Devakottai and transfer the same to the file of the Family Court at Chennai.

For Petitioner : Mr.R.Balachandran

For Respondent : No Appearance

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.48 of 2017 pending on the file of the Sub Court, Devakottai and transfer the same to the file of the Family Court at Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 22.05.2015. After marriage, both the petitioner and respondent were living in the matrimonial home at Chennai. In the wedlock, a female child was born on 09.04.2016. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the respondent filed H.M.O.P.No.48 of 2017 before the Sub Court at Devakottai for restitution of conjugal rights.

3.The learned counsel for the petitioner contended that the petitioner is working and residing at Chennai along with minor child. The distance between Chennai and Devakottai is 450 kms and hence, being a lady, it will be very difficult for the petitioner to travel such a long distance to attend each and every hearing before Sub Court, Devakottai. In the circumstances, she has filed the present Transfer Civil

Miscellaneous Petition to transfer H.M.O.P.No.48 of 2017 pending on the file of the Sub Court, Devakottai to the file of the Family Court at Chennai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Notice sent to the respondent was not served. This Court permitted the petitioner to serve the counsel who is appearing for the respondent in H.M.O.P.No.48 of 2017 before the Sub Court at Devakottai. Notice was served on the lower Court counsel and counsel for the petitioner filed affidavit of service. Hence, registry was directed to print the name of the respondent. Though the name of the respondent is printed in the cause list, there is no representation for him either in person or through counsel.

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.48 of 2017 is ordered to be withdrawn from the file of the Sub Court, Devakottai and transferred to the file of the Family Court, Chennai. The learned Subordinate Judge, Devakottai is directed to transmit all the records pertaining to H.M.O.P.No.48 of 2017 to the file of the Family Court, Chennai 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.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrars

To

- 1.The Judge, Family Court, Chennai.
- 2.The Subordinate Judge, Devakottai.

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NA (CO)
GSP (27/07/2018)