

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.735 of 2017
and C.M.P.No.15023 of 2017

S.Uma Maheswari

... Petitioner

Vs.

K.S.Anand

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.87 of 2016 pending on the file of the Subordinate Court, Nagapattinam and transfer the same to the file of the II Additional Family Court, Chennai.

For Petitioner : Mr.B.Venugopal
For Respondent : Mr.K.Sithanthan

O R D E R

This petition is filed to withdraw H.M.O.P.No.87 of 2016 pending on the file of the Subordinate Court, Nagapattinam and transfer the same to the file of the II Additional Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 15.12.2008 at Nagapattinam. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.11 of 2015 for divorce on the file of the Subordinate Court, Nagapattinam and the same was dismissed for default. Again the respondent has filed H.M.O.P.No.87 of 2016 on the file of the Subordinate Court, Nagapattinam for divorce.

3.According to the petitioner, she is staying at Chennai along with her parents. She is not working and depending on her aged parents for her day-to-day expenses, including the travel expenses to attend each and every hearing of Court proceedings at Subordinate Court, Nagapattinam. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.87 of 2016 pending on the file of the Subordinate Court, Nagapattinam to the II Additional Family Court, Chennai.

4. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

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, the 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 fact that the respondent has not disputed petitioner's residence at Chennai and the decisions of the Hon'ble Apex Court referred to above, the petition in H.M.O.P.No.87 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Nagapattinam and transferred to the file of the II Additional Family Court, Chennai. The learned Subordinate Judge, Nagapattinam is directed to transmit all the records pertaining to H.M.O.P.No.87 of 2016 to the file of the II Additional 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/-

Deputy Registrar

//True copy//

Sub Assistant Registrar

gsa

To

1.The II Additional Family Court Judge,
Chennai.

2.The Subordinate Judge, Nagapattinam.

+1cc to Mr.B.Venugopal, Advocate SR.No.26351

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GN(25/04/2018)