

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.753 of 2017

and C.M.P.No.15363 of 2017

Sudarshana

... Petitioner/Respondent

Vs.

Venkatesan

.... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.151 of 2016 pending on the file of the Subordinate Court, Perambalur and transfer the same to the file of the Subordinate Court, Trichy.

For Petitioner : Mr.V.Vijay Shankar

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.151 of 2016 pending on the file of the Subordinate Court, Perambalur and transfer the same to the file of the Subordinate Court, Trichy.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 15.11.2015 as per Hindu rites and customs. After marriage, the petitioner and respondent were living in the matrimonial home in Perambalur. The respondent and his family members ill-treated the petitioner and thrown her out from the matrimonial home and the respondent filed H.M.O.P.No.151 of 2016 on the file of the Subordinate Court, Perambalur, to nullify the marriage by making false allegations.

3. According to the petitioner, she is residing at Manapparai in Trichy. She apprehends that respondent and his family members will give trouble to her, when she attends the Court proceedings at Perambalur. Further, she has no one to accompany her to go to Perambalur. Therefore, she prays for transfer of H.M.O.P.No.151 of 2016 from the file of the Subordinate Court, Perambalur, to the file of the Subordinate Court, Trichy.

4.The learned counsel for the petitioner submitted that the distance between Manapparai and Perambalur is more than 100 kilometers and being a lady, it is very difficult for the petitioner to travel such a long distance without help of others. Further, she is not having any independent income to maintain herself including travelling expenses.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6.Notice sent to the respondent through Court as well as privately was returned with an endorsement as 'refused'. This Court directed the Registry to print the name of the respondent in the cause list. Though the name of the respondent is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

7. 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.

8.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 residence of the petitioner at Manapparai, Trichy District, the petition in H.M.O.P.No.151 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Perambalur and transferred to the file of the Subordinate Court, Trichy. The learned Subordinate Judge, Perambalur, is directed to transmit all the records pertaining to H.M.O.P.No.151 of 2016 to the file of the Subordinate Court, Trichy, within a period of two weeks from the date of receipt of a copy of this order.

9.Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

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Assistant Registrar(CCC)
//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge
Perambalur.

2.The Subordinate Judge
Trichy.

+1 cc to Mr.V.Vijay Shankar Advocate sr 25247

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