

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.762 of 2017
and C.M.P.No.15504 of 2017

Britta

... Petitioner

Vs.

Sampath

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw M.O.P.No.280 of 2017 pending on the file of the Family Court, Pudhucherry and transfer the same to the file of the Principal Subordinate Court, Vridhachalam and to try along with H.M.O.P.No.65 of 2017 pending on its file.

For Petitioner : Mr.E.Durai
For Respondent : No appearance

O R D E R

This petition is filed to withdraw M.O.P.No.280 of 2017 pending on the file of the Family Court, Pudhucherry and transfer the same to the file of the Principal Subordinate Court, Vridhachalam and to try along with H.M.O.P.No.65 of 2017 pending on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 31.01.2005 as per Hindu rites and customs, at Arulmigu Devanatha Swamy Temple, Thiruvandhipuram, Cuddalore. In the wedlock, a male child was born on 19.09.2005. Due to difference of opinion between the petitioner and respondent, they are living separately. The respondent filed M.O.P.No.280 of 2017 on the file of the Family Court, Pudhucherry, for divorce. The petitioner filed H.M.O.P.No.65 of 2017 on the file of the Principal Subordinate Court, Vridhachalam, for divorce.

3. According to the petitioner, she is residing at Vayalur colony in Vridhachalam along with her minor son and aged mother. It is very difficult for her to travel from Vridhachalam to Pudhucherry to attend the proceedings in M.O.P.No.280 of 2017 pending on the file of the Family Court, Pudhucherry, wherein

presence of spouse is necessary for each and every hearing. Therefore, she prays for transfer of M.O.P.No.280 of 2017 from the file of the Family Court, Pudhucherry, to the file of the Principal Subordinate Court, Vridhachalam and to try along with H.M.O.P.No.65 of 2017 pending on its file.

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 is printed in the cause list, there is no representation on behalf of 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 M.O.P.No.280 of 2017 is ordered to be withdrawn from the file of the Family Court, Pudhucherry and transferred to the file of the Principal Subordinate Court, Vridhachalam and to be tried along with H.M.O.P.No.65 of 2017, which is filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, Family Court, Pudhucherry, is directed to transmit all the records pertaining to M.O.P.No.280 of 2017 to the file of the Principal Subordinate Court, Vridhachalam, 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 VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Family Judge, Pudhucherry.

2. The Principal Subordinate Judge
Vridhachalam .

Tr.C.M.P. No.762 of 2017
and C.M.P.No.15504 of 2017

VBA (CO)
CS/26/04/18



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