

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.767 of 2017
and C.M.P.No.15637 of 2017

K.Suhasini

... Petitioner

Vs.

D.Karthik

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.191 of 2017 pending on the file of the Subordinate Court, Sivakasi and transfer the same to the file of the Subordinate Court, Chidambaram.

For Petitioner : Mrs.G.Sumitra

For Respondent : Mr.A.Mohandass

O R D E R

This petition is filed to withdraw H.M.O.P.No.191 of 2017 pending on the file of the Subordinate Court, Sivakasi and transfer the same to the file of the Subordinate Court, Chidambaram.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 21.10.2009 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home in Virudhunagar. The respondent by demanding more money had assaulted the petitioner and therefore, the petitioner left the matrimonial home. The respondent filed H.M.O.P.No.191 of 2017 on the file of the Subordinate Court, Sivakasi, for restitution of conjugal rights making false allegations against the petitioner, in order to avoid payment of maintenance to her.

3.According to the petitioner, she is residing at Chidambaram, Cuddalore District, along with her mother and brother. The distance between Chidambaram and Sivakasi is more than 540 kilometers. Her father is no more and her brother is preoccupied with his personal work and her mother is an aged

person. Hence, it is difficult for her to travel such a long distance. Further, the respondent is an influential person and therefore, she apprehends that he will give trouble to her, when she attends the Court proceedings at Sivakasi. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.191 of 2017 from the file of the Subordinate Court, Sivakasi, to the file of the Subordinate Court, Chidambaram.

4.The learned counsel for the respondent submitted that the respondent filed the said H.M.O.P. only before the jurisdictional Court and the petitioner can appear before the Court at Sivakasi and prayed for dismissal of the transfer petition.

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

6.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.

7.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 is in Chidambaram, the petition in H.M.O.P.No.191 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Sivakasi and transferred to the file of the Subordinate Court, Chidambaram. The learned Subordinate Judge, Sivakasi, is directed to transmit all the records pertaining to H.M.O.P.No.191 of 2017 to the file of the Subordinate Court, Chidambaram, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Subordinate Judge, Sivakasi.

2.The Subordinate Judge, Chidambaram.

+1cc to M/s.G.Sumitra, Advocate,sr.no.26145

+1cc to Mr.A.Mohandass,Advocate,sr.no.26601

Tr.C.M.P. No.767 of 2017
and C.M.P.No.15637 of 2017

MR(CO)

RRK(22/05/18)



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