

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.776 of 2017
and C.M.P.No.15795 of 2017

N.Pushpalatha

... Petitioner

Vs.

Natarajan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.187 of 2017 pending on the file of Sub Court, Pudhukottai and transfer the same to the file of Sub Court, Mayiladuthurai.

For Petitioner : Ms.M.Shobana

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.187 of 2017 pending on the file of Sub Court, Pudhukottai and transfer the same to the file of Sub Court, Mayiladuthurai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 14.07.1981 as per Hindu rites and customs. In the wedlock, three children were born. Respondent tortured the petitioner and deserted her. The petitioner filed a complaint against the respondent under the Domestic Violence Act in D.V.C.No..... before the Judicial Magistrate, Seerkazhi. The respondent filed H.M.O.P.No.187 of 2017 before the Sub Court at Pudhukottai for restitution of conjugal rights.

3.According to the petitioner, she is residing at Seerkali. The petitioner suffered fracture in right hip joint and was advised by the Doctor not to travel a long distance. Being a lady, it will be very difficult for her to travel from Seerkali to Pudhukottai to attend each and every hearing without assistance. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.187 of 2017 pending on the file of Sub Court, Pudhukottai to the file of the Sub Court at Mayiladuthurai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent through lower Court counsel and his name 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 the 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.187 of 2017 is ordered to be withdrawn from the file of Sub Court, Pudhukottai and transferred to the file of Sub Court, Mayiladuthurai. The learned Subordinate Judge, Pudhukottai is directed to transmit all the records pertaining to H.M.O.P.No.187 of 2017 to the file of the Sub Court at Mayiladuthurai, 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/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge, Mayiladuthurai.

2.The Subordinate Judge, Pudhukottai.

+ 1 cc to Mr. Karl Marx, Advocate Sr.50859

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(CS-V)
EU(03/09/2018)