IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.779 & 803 of 2017
and CMP.Nos.16263 & 15845 of 2017

Kousika Sundaresan .. Petitioner in Tr.CMP.No.779/17 &
Respondent in Tr.CMP.No.803/17

Vs.

Anantharaman Kausik ... Respondent in Tr.CMP.No.779/17
& Petitioner in Tr.CMP.No.803/17

Prayer in Tr.CMP.No.779 of 2017 :- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer H.M.O.P.No. 2297 of 2017 pending on the file of the III Additional Family Court, Chennai to the Sub Court, Pollachi, Coimbatore.

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Prayer in Tr.CMP.No.803 of 2017:- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer the H.M.O.P.No.19 of 2016 pending on the file of the Sub Court, Pollachi to transfer the same to the III Additional Family Court, Chennai.

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For Petitioner in
Tr.CMP.No.779 of 2017
& respondent in
Tr.CMP.No.803 of 2017 : Mr.B.Ramamoorthy

For Respondent in
Tr.CMP.No.779 of 2017
& petitioner in
Tr.CMP.No.803 of 2017 : Ms.S.Nandhini Devi

COMMON ORDER

Tr.CMP No.779 of 2017 has been filed by the wife to transfer H.M.O.P.No.2297 of 2017 pending on the file of III Additional Family Court, Chennai to the file of Sub Court, Pollachi, Coimbatore.

2. Tr.CMP.No.803 of 2018 has been filed by the husband to transfer the H.M.O.P.No.19 of 2016 pending on the file of Sub Court, Pollachi, to the file of III Additional Family Court, Chennai to be tried alongwith H.M.O.P.No.2297 of 2017.

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3. The parties and issues involved in both the Tr.CMPs. are one and the same and therefore, they are disposed of by this common order. Parties are referred to as husband and wife for easy reference.

4. The marriage between the petitioner and respondent was

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conducted on 01.05.2015 as per Hindu rites and customs. Due to difference of opinion between the petitioner and respondent, they are living separately. The wife filed H.M.O.P.No.19 of 2016 on the file of the Sub Court, Pollachi, for divorce. The husband filed HMOP No.2297 of 2017 on the file of III Additional Family Court, Chennai for restitution of conjugal rights.

5. According to the wife, she is residing along with her parents in Pollachi. She does not have a permanent job and has been depending on her parents for her livelihood. The distance between Pollachi and Chennai is more than 520 kilometers and hence, it is very difficult for her to travel from Pollachi to Chennai to attend the hearing. Therefore, she prays that the petition in H.M.O.P.No.2297 of 2017 may be withdrawn from the file of III Additional Family Court, Chennai and transferred to the file of Sub-Court, Pollachi.

6. The learned counsel for the husband submitted that the husband is working in a private concern and it will be very difficult for him to take leave and go to Pollachi for conducting the case. If the case is transferred from the III Additional Family Court, Chennai, to the Sub Court, Pollachi, the husband has to appear before the Court for each and every hearing, which is very difficult for him. Hence, he

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prayed for dismissal of the Tr.CMP.No.779 of 2017 and allowing the Tr.CMP.No.803 of 2017.

7. Heard the learned counsel appearing for the husband as well as wife and perused the materials available on record.

8. 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]***.

9. Having regard to the submissions made by the learned counsel on both sides and the decisions of the Hon'ble Apex Court referred to above, the petition in H.M.O.P.No.2297 of 2016 is ordered to be withdrawn from the file of III Additional Family Court, Chennai and transferred to the file of Sub-Court, Pollachi. The III Additional Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.2297 of 2016 to the file of Sub-Court, Pollachi, within a period of two weeks from the date of receipt of a copy of this order.

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On receipt of the said proceedings, Subordinate Judge, Pollachi, is directed to dispose of both the HMOPs. as expeditiously as possible, in any event, not later than four months from the date of receipt of a copy of this order.

10. Accordingly, the Tr.C.M.P.No.779 of 2017 filed by the wife is ordered and Tr.C.M.P.No.803 of 2017 filed by the husband is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.04.2018

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To,

1.The Subordinate Judge, Pollachi.

2.The Family Court, Chennai.

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V.M.VELUMANI, J.

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