

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.957 of 2017  
and C.M.P.No.19195 of 2017

R.Karthika

... Petitioner

Vs.

Venkatasubramani

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.66 of 2017 pending on the file of Sub Court, Uthangarai and transfer the same to the file of Additional Family Court, Coimbatore.

For Petitioner : Mr.R.Aranganathan  
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.66 of 2017 pending on the file of Sub Court, Uthangarai and transfer the same to the file of Additional Family Court, Coimbatore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 05.02.2015 as per Hindu rites and customs. In the wedlock, a female child was born. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the petitioner filed M.C.No.120 of 2017 on the file of Additional Family Court, Coimbatore, for maintenance. The respondent filed H.M.O.P.No.66 of 2017 on the file of Sub Court, Uthangarai, for restitution of conjugal rights against the petitioner.

3.According to the petitioner, she is residing along with her parents and minor child at Coimbatore. The distance between Coimbatore and Uthangarai is more than 250 kilometers and hence, it is very difficult for her to travel such a long distance to attend each and every hearing of the Court proceedings at Uthangarai. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.66 of 2017 pending on the file of Sub Court, Uthangarai, to the file of Additional Family Court, Coimbatore, to be tried along with M.C.No.120 of 2017.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served privately on the respondent and his name was printed in the cause list on 04.07.2018, there was no representation on behalf of him either in person or through counsel. To give him one more opportunity, the matter was adjourned to 06.07.2018. Today also, 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 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.66 of 2017 is ordered to be withdrawn from the file of Sub Court, Uthangarai and transferred to the file of Additional Family Court, Coimbatore, to be tried along with M.C.No.120 of 2017 filed by the petitioner. The learned Subordinate Judge, Uthangarai is directed to transmit all the records pertaining to H.M.O.P.No.66 of 2017 to the file of Additional Family Court, Coimbatore 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

LPP/gsa

To

1. The Subordinate Judge, Uthangarai.

2. The Judge, Additional Family Court, Coimbatore.

+ 2 ccs to Mr. R. Aranganathan, Advocate Sr.

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