

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.987 of 2017
and C.M.P.No.19959 of 2017

V.Mekala

... Petitioner

Vs.

M.R.Balamurugan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.42 of 2016 pending on the file of the Principal Subordinate Court, Virudhachalam and transfer the same to the file of the Subordinate Court, Nagapattinam.

For Petitioner : Mr.Shivakumar and Suresh

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.42 of 2016 pending on the file of the Principal Subordinate Court, Virudhachalam and transfer the same to the file of the Subordinate Court, Nagapattinam.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.02.2015 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home in Virudhachalam. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.42 of 2016 on the file of the Principal Subordinate Court, Virudhachalam for divorce against the petitioner making false allegations.

3. According to the petitioner, she is residing along with her parents in Alaththampadi, Nagapattinam District. She is not having any independent income. The distance between Nagapattinam and Virudhachalam is more than 130 kilometers and hence, it is very difficult for her to travel to attend the Court proceedings at Virudhachalam. In the circumstances, the

petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.42 of 2016 pending on the file of the Principal Subordinate Court, Virudhachalam, to the file of the Subordinate Court, Nagapattinam.

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]. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

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 and residence of the petitioner is at Nagapattinam, the petition in H.M.O.P.No.42 of 2016 is ordered to be withdrawn from the file of the Principal Subordinate Court, Virudhachalam and transferred to the file of the Subordinate Court, Nagapattinam. The learned Principal Subordinate Judge, Virudhachalam is directed to transmit all the records pertaining to H.M.O.P.No.42 of 2016 to the file of the Subordinate Court, Nagapattinam, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Deputy Registrar (CO)

//True Copy//

Sub Assistant Registrar

mps

To

1.The Principal Subordinate Judge, Virudhachalam.

2.The Subordinate Judge, Nagapattinam.

+1cc to Mr.Shivakumar & Suresh, Advocate, S.R.No.30633

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RRK (27/04/2018)



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