

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.109 of 2018
and C.M.P.No.3131 of 2018

A.Kanchana Devi

... Petitioner

Vs.

P.Subash

... Respondent

PRAYER:

Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.57 of 2017 pending on the file of the Sub Court, Madhuranthagam and transfer the same to the file of the Sub Court, Kancheepuram.

For Petitioner : Mr.K.Balaji
For Respondent : Mr.N.Nagusah

O R D E R

This petition is filed to withdraw H.M.O.P.No.57 of 2017 pending on the file of the Sub Court, Madhuranthagam and transfer the same to the file of the Sub Court, Kancheepuram.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 26.10.2015 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Kodur Village, Madhuranthagam. In the wedlock, a female child was born on 04.08.2016. According to the petitioner, due to ill-treatment of the respondent, difference of opinion arose between the petitioner and the respondent. Thereafter, the petitioner was thrown out from the matrimonial home. Earlier, the respondent filed H.M.O.P.No.8 of 2016 on the file of Sub Court, Madhuranthagam for restitution of conjugal rights. Subsequently, he withdrew the said H.M.O.P.No.8 of 2016 and filed present H.M.O.P.No.57 of 2017 before the Sub Court at Madhuranthagam for divorce against the petitioner.

3.According to the petitioner, she is residing at Kancheepuram along with her parents and minor child. The

petitioner is studying M.B.A., in SCSVMV University at Kancheepuram. The distance between Kancheepuram and Madhuranthagam is more than 65 kms. Hence, it will be very difficult for her to travel such a long distance to attend each and every hearing before Sub Court, Maduranthagam.

4.The learned counsel for the petitioner contended that on earlier occasion when the petitioner went to Madhuranthagam to attend the hearing, the respondent and his friends created problem, attacked her father and tried to snatch the child. The same was prevented with the help of public. The respondent also lodged a complaint before the Sub-Inspector of Police, Madhuranthagam and on enquiry, the police found that the compliant given by the respondent is false. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.57 of 2017 pending on the file of the Sub Court, Madhuranthagam to the file of the Sub Court, Kancheepuram.

5.The learned counsel for the respondent filed counter affidavit and denied all the averments made in the affidavit filed in support of the above petition and contended that the H.M.O.P.No.57 of 2017 is pending only before the Sub Court at Madhuranthagam and the petitioner need not attend each and every hearing in person. She can represent the case through advocate. If H.M.O.P.No.57 of 2017 is transferred to the file of the Sub Court at Kancheepuram, the respondent will be put to hardship and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

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

7.Considering the above contention of the learned counsel for the petitioner and the respondent 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.

8.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.57 of 2017 is ordered to be withdrawn from the file of the Sub Court, Madhuranthagam and transferred to the file of the Sub Court, Kancheepuram. The learned Subordinate Judge, Madhuranthagam is directed to transmit all the records pertaining to H.M.O.P.No.57 of 2017 to the file of the Sub Court, Kancheepuram 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 VII)

//True Copy//

Sub Assistant Registrar

LPP/gsa

To

- 1.The Subordinate Judge, Madhuranthagam.
- 2.The Subordinate Judge, Kancheepuram.

+1cc to Mr.N.Nagusah, Advocate, S.R.No.39886

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