

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.135 of 2018
and C.M.P.No.3665 of 2018

K.Sangeetha

... Petitioner

Vs.

A.Sampath Kumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.3979 of 2017 pending on the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Subordinate Court, Tiruvarur, to try along with H.M.O.P.No.115 of 2017 pending on its file.

For Petitioner : Mr.M.Senthil
For Respondent : Mr.S.N.Subramani

O R D E R

This petition is filed to withdraw H.M.O.P.No.3979 of 2017 pending on the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Subordinate Court, Tiruvarur, to try along with H.M.O.P.No.115 of 2017 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 08.07.2012 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home in Chennai. In the wedlock, a male child was born on 22.07.2013. The respondent and his family members abused the petitioner by demanding dowry and thrown her out from the matrimonial home. The respondent filed H.M.O.P.No.3979 of 2017 on the file of the IV Additional Family Court, Chennai, for divorce against the petitioner making false allegations. The petitioner filed H.M.O.P.No.115 of 2017 on the file of the Subordinate Court, Tiruvarur, for restitution of conjugal rights.

3. According to the petitioner, she is residing in her parents home at Tiruvarur along with her minor child. The distance between Tiruvarur and Chennai is more than 300 kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings in IV Additional Family Court, Chennai, wherein presence of spouse is mandatory for each and every hearing. Further, she is not having any independent income and she is depending on her parents and her parents are maintaining the petitioner and her child from the meagre income. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.3979 of 2017 pending on the file of the IV Additional Family Court, Chennai, to the file of the Subordinate Court, Tiruvarur, to try along with H.M.O.P.No.115 of 2017 pending on its file.

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

5. Considering the above contentions of the learned counsel for the petitioner and 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.3979 of 2017 is ordered to be withdrawn from the file of the IV Additional Family Court, Chennai and transferred to the file of the Subordinate Court, Tiruvarur, to be tried along with H.M.O.P.No.115 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned IV Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.3979 of 2017 to the file of the Subordinate Court, Tiruvarur, 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 III)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Tiruvarur.

2.The IV Additional Judge, Family Court, Chennai.

+1cc to Mr.M.Senthil , Advocate, S.R.No.29047

+1cc to Mr.S.N.Subramani Pleader, Advocate, S.R.No.29127

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