

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.137 of 2018
and C.M.P.No.3756 of 2018

N.Asha Priya

... Petitioner

Vs.

K.Srinivasan

... Respondent

PRAYER:

Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.3412 of 2017 pending on the file of the III Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Ponneri to be tried along with H.M.O.P.No.315 of 2017.

For Petitioner : Mr.Dhalapathy Vignesh Kumar

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.3412 of 2017 pending on the file of the III Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Ponneri, to be tried along with H.M.O.P.No.315 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 04.06.2017 as per Hindu Rites and Customs. Due to difference of opinion, both the petitioner and respondent are living separately. According to the petitioner, the respondent by giving wrong address as though he is residing at Mannady, filed H.M.O.P.No.3412 of 2017 before the III Additional Family Court, Chennai against the petitioner for divorce. The petitioner has filed H.M.O.P.No.315 of 2017 on the file of the Sub Court, Ponneri for restitution of conjugal rights. The issues involved in both the H.M.O.P.No.315 of 2017 and H.M.O.P.No.3412 of 2017 are one and the same and therefore, both must be heard together to avoid conflicting decisions.

3. She further contended that, she is residing at Manali. The distance between Manali and Chennai is more than 20 kms and hence, it will be very difficult for her to travel such a long distance to attend each and every hearing before Family Court, Chennai. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.3412 of 2017 pending on the file of the III Additional Family Court, Chennai to the file of the Sub Court, Ponneri to be tried along with H.M.O.P.No.315 of 2017, in order to avoid conflicting decisions being delivered by two different Courts.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, 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.3412 of 2017 is ordered to be withdrawn from the file of the III Additional Family Court, Chennai and transferred to the file of the Sub Court, Ponneri to be tried along with H.M.O.P.No.315 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, III Additional Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.3412 of 2017 to the file of the Sub Court, Ponneri 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 Judge,
III Additional Family Court,
Chennai.
2. The Subordinate Judge,
Ponneri.

+lcc to Mr.Dhalapathy Vignesh Kumar, Advocate, S.R.No.39854

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SSI (CO)
CS/16/07/18



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