

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.161 of 2018
and C.M.P.No.4343 of 2018

S.Lakshmi @ Harini

... Petitioner

Vs.

B.Sanjeev Kumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.4434 of 2017 pending on the file of II Additional Family Court, Chennai and transfer the same to the file of Family Court, Tirunelveli.

For Petitioner : Mr.N.Senthil Kumar

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.4434 of 2017 pending on the file of II Additional Family Court, Chennai and transfer the same to the file of Family Court, Tirunelveli.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 05.12.2011 as per Hindu rites and customs. In the wedlock, a female child was born on 17.11.2014. The respondent tortured the petitioner by demanding dowry and thrown her out from the matrimonial home. While so, the respondent filed H.M.O.P.No.4553 of 2015 on the file of Principal Family Court, Chennai against the petitioner for divorce and he subsequently withdrew the said petition. Again, the respondent filed H.M.O.P.No.4434 of 2017 on the file of II Additional Family Court, Chennai for divorce, making false allegations against the petitioner.

3.According to the petitioner, she is residing along with her parents at Valliyur, Tirunelveli and depending on them for maintaining herself and the minor child. She is not having any independent income. The distance between Valliyur, Tirunelveli and Chennai is more than 700 kilometers and hence, it will be very difficult for her to travel such a long distance to attend each and every hearings of the Court proceedings at Chennai. The minor child is studying Pre.K.G in a school at Valliyur. There is no one to accompany her to attend the Court

proceedings at Chennai. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.4434 of 2017 pending on the file of II Additional Family Court, Chennai to the file of Family Court, Tirunelveli.

4.Heard learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, when the matter is called today there is no representation on behalf of him.

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.4434 of 2017 is ordered to be withdrawn from the file of II Additional Family Court, Chennai and transferred to the file of Family Court, Tirunelveli. The learned Judge, II Additional Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.4434 of 2017 to the file of Family Court, Tirunelveli 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)

//True Copy//

Sub Assistant Registrar

To

1.The Judge, II Additional Family Court, Chennai.

2.The Judge, Family Court, Tirunelveli.

+ 1 cc to MR. N. Senthilkumar, Advocate Sr.43898

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EV (CO)

EU (01/08/2018)

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