

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.173 of 2018

and C.M.P.No.4700 of 2018

P.Selvi

... Petitioner

Vs.

D.Anandakumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.65 of 2017 pending on the file of Sub Court, Avinashi and transfer the same to the file of Sub Court, Gobichettipalayam, Erode District.

For Petitioner : Ms.I.Manjumadevi

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.65 of 2017 pending on the file of Sub Court, Avinashi and transfer the same to the file of Sub Court, Gobichettipalayam, Erode District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 27.08.2015 as per Hindu rites and customs. In the wedlock, a female child was born. The respondent and his family members tortured the petitioner and thrown her out from the matrimonial home. The respondent filed H.M.O.P.No.65 of 2017 on the file of Sub Court, Avinashi against the petitioner for divorce.

3.According to the petitioner, she is residing at Nambiyur, Erode District along with the minor child. She is working as cooli worker. The distance between Erode and Avinashi is 35 kms and hence, it will be very difficult for her to travel such a long distance to attend each and every hearings along with the minor child. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.65 of 2017 pending on the file of Sub Court, Avinashi to the file of the Sub Court, Gobichettipalayam, Erode District.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and subsequently he entered

appearance through counsel and took time for filing counter, today, there is no representation for him.

5.Considering the above contention of the learned counsel for the petitioner and the 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.65 of 2017 is ordered to be withdrawn from the file of Sub Court, Avinashi and transferred to the file of Sub Court, Gobichettipalayam, Erode District. The learned Subordinate Judge, Avinashi is directed to transmit all the records pertaining to H.M.O.P.No.65 of 2017 to the file of the Sub Court, Gobichettipalayam, Erode District, 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.

gsa

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Gobichettipalayam, Erode District.

2.The Subordinate Judge, Avinashi.

+1cc to Mr.E.D.Sethupathi, Advocate SR.NO.49895

sm:29.8.2018

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