

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.181 of 2018
and C.M.P.No.4868 of 2018

M.Ramya

... Petitioner

Vs.

M.Bharani Sundaram

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.13 of 2018 pending on the file of Family Court, Dindigul and transfer the same to the file of Family Court, Salem District.

For Petitioner : Mr.N.Vijaya Basker

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.13 of 2018 pending on the file of Family Court, Dindigul and transfer the same to the file of Family Court, Salem District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 11.03.2016 as per Hindu rites and customs. The family members of the respondent thrown the petitioner out from the matrimonial home. In the wedlock, a male child was born on 18.01.2017. While so, the respondent filed H.M.O.P.No.13 of 2018 against the petitioner on the file of Family Court, Dindigul for divorce. The petitioner filed F.C.O.P.No.52 of 2018 on the file of the Family Court, Salem District against the respondent for restitution of conjugal rights.

3.According to the petitioner, she is residing at Salem along with her parents and sisters. She is not having any independent income and depending on her father for maintaining herself and the minor child. The distance between Salem and

Dindigul is more than 180 kilometers and hence, being a lady, it will be very difficult for her to travel such a long distance to attend each and every hearings 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.13 of 2018 pending on the file of Family Court, Dindigul to the file of the Family Court at Salem District, to be tried along with F.C.O.P.No.52 of 2018, in order to avoid conflicting decisions being rendered 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 privately 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 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.13 of 2018 is ordered to be withdrawn from the file of Family Court, Dindigul and transferred to the file of Family Court, Salem District to be tried along with F.C.O.P.No.52 of 2018, in order to avoid multiplicity of proceedings and conflicting decisions being rendered by two different Courts. The learned Judge, Family Court, Dindigul is directed to transmit all the records pertaining to H.M.O.P.No.13 of 2018 to the file of the Family Court, Salem 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.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Judge, Family Court, Dindigul.

2.The Judge, Family Court, Salem District.

+lcc to Mr.N.Vijaya Basker, Advocate, S.R.No.51669

Tr.C.M.P. No.181 of 2018
and C.M.P.No.4868 of 2018

GSP (05/09/2018)



WEB COPY