

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.195 of 2018
and C.M.P.No.5106 of 2018

P.Sangeetha @ Thillaikarasi ... Petitioner

M.Muthu Vs. ... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.403 of 2017 pending on the file of the Sub Court, Tambaram and transfer the same to the file of the Family Court, Vellore, Vellore District.

For Petitioner : M/s.S.Deivasigamani

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.403 of 2017 pending on the file of the Sub Court, Tambaram and transfer the same to the file of the Family Court, Vellore, Vellore District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.04.2007 as per Hindu Rites and Customs. In the wedlock, a female child was born on 20.05.2009. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the respondent filed F.C.O.P.No.172 of 2014 before the Family Court, Vellore for divorce and the same was dismissed for default with cost. Suppressing the said dismissal, again the respondent filed H.M.O.P.No.403 of 2017 before the Sub Court, Tambaram for divorce.

3.According to the petitioner, she is residing at Vellore along minor child. The distance between Vellore and Tambaram is more than 105 kms and hence, it will be very difficult for her to travel from Vellore to Tambaram to attend each and every hearing. In the circumstances, she has filed the present Transfer civil Miscellaneous Petition to transfer H.M.O.P.No.403 of 2017 from the file of the Sub Court, Tambaram to the file of the Family Court, Vellore.

4. Heard the counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, today there is no representation for 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.403 of 2017 is ordered to be withdrawn from the file of the Sub Court, Tambaram and transferred to the file of the Family Court, Vellore. The learned Subordinate Judge, Tambaram is directed to transmit all the records pertaining to H.M.O.P.No.403 of 2017 to the file of the Family Court, Vellore 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(CO)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Judge, Family Court, Vellore.

2. The Subordinate Judge, Tambaram.

+ 1 cc to Mr.S. Deivasigamani, Advocate Sr.45530

Tr.C.M.P.No.195 of 2018
and C.M.P.No.5106 of 2018

SKV(CO)
EU(01/08/2018)