

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.201 of 2018
and C.M.P.No.5229 of 2018

A.Jayasurya

... Petitioner

Vs.

J.Anandan

... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.3839 of 2017 pending on the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Tindivanam, Villupuram District.

For Petitioner : Mr.M.Machavatharan

For Respondent : M/s.I.C.Vasudevan
N.Gnanalingam

O R D E R

This petition is filed to withdraw H.M.O.P.No.3839 of 2017 pending on the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Tindivanam, Villupuram District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 04.09.2014 as per Hindu Rites and Customs. 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.3839 of 2017 before the VII Additional Family Court, Chennai for divorce. The petitioner filed H.M.O.P.No.130 of 2017 on the file of the Sub Court, Tindivanam, Villupuram District for restitution of conjugal rights.

3.According to the petitioner, she is residing at Tindivanam along with her aged parents. The distance between Tindivanam and Chennai is more than 120 kms and hence, it will be very difficult for her to travel from Tindivanam to Chennai 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.3839 of 2017 from the file of the VII Additional Family Court, Chennai to the file of Sub Court, Tindivanam, Villupuram District.

4.The learned counsel for the petitioner prayed that in order to avoid conflicting decisions being rendered by two different Courts, the H.M.O.P.No.3839 of 2017 pending on the file of the VII Additional Family Court, Chennai may be transferred to Sub Court, Tindivanam, Villuppuram District to be tried along with H.M.O.P.No.130 of 2017 pending on its file.

5.The learned counsel for the respondent submitted that the respondent is working and residing at Chennai. It will be very difficult for him to travel from Chennai to Tindivanam to attend each and every hearing and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

6.Heard the counsel for the petitioner as well as the respondent and perused the materials available on record.

7.Considering the above contention of the learned counsel for the petitioner as well as the respondent 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.

8.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.3839 of 2017 is ordered to be withdrawn from the file of the VII Additional Family Court, Chennai and transferred to the file of the Sub Court, Tindivanam, Villupuram District to be tried along with H.M.O.P.No.130 of 2017 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned VII Additional Judge, Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.3839 of 2017 to the file of the Sub Court, Tindivanam, Villupuram 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/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Subordinate Judge, Tindivanam, Villupuram District.

+1cc to Mr.E.KANNADASAN, Advocate, S.R.No.44831

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CS (DR)
SMI/02.08.2018



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