

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.217 of 2018
and C.M.P.No.5540 of 2018

J.Sathya

... Petitioner

Vs.

P.Nirmal Kumar

... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.166 of 2017 pending on the file of the Sub Court, Krishnagiri and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.S.Alex Raj

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.166 of 2017 pending on the file of the Sub Court, Krishnagiri and transfer the same to the file of the Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 06.02.2017 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.166 of 2017 before the Sub Court, Krishnagiri for restitution of conjugal rights.

3.According to the petitioner, she is residing at Chennai along with her parents. The distance between Chennai and Krishnagiri is more than 250 kms and hence, it will be very difficult for her to travel such a long distance 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.166 of 2017 from the file of the Sub Court, Krishnagiri to the file of Family Court, Chennai.

4.The learned counsel for the petitioner submitted that the petitioner has filed M.C.No.125 of 2018 against the respondent, claiming maintenance and the same is pending before IV Additional Family Court, Chennai.

5.Heard the counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.

6.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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.166 of 2017 is ordered to be withdrawn from the file of the Sub Court, Krishnagiri and transferred to the file of the Family Court, Chennai. The learned Subordinate Judge, Krishnagiri is directed to transmit all the records pertaining to H.M.O.P.No.166 of 2017 to the file of the Family Court, Chennai 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 Judge, Family Court, Chennai.
- 2.The Subordinate Judge, Krishnagiri.

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GSP(31/07/2018)