

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.219 of 2018

and C.M.P.No.5595 of 2018

R.Agni ... Petitioner

Vs.

M.Ram Kumar ... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.346 of 2017 pending on the file of the Sub Court, Ponneri and transfer the same to the file of the I Additional Family Court, Chennai to be tried along with H.M.O.P.No.647 of 2018 pending on its file.

For Petitioner : Ms.I.Priya Varadhini
for Mr.G.Ashok Kumar

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.346 of 2017 pending on the file of the Sub Court, Ponneri and transfer the same to the file of the I Additional Family Court, Chennai to be tried along with H.M.O.P.No.647 of 2018 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 25.11.2014 as per Hindu Rites and Customs. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the respondent filed H.M.O.P.No.346 of 2017 before the Sub Court, Ponneri for divorce on the ground of cruelty. The petitioner filed H.M.O.P.No.647 of 2018 on the file of the I Additional Family Court, Chennai for restitution of conjugal rights.

3.According to the petitioner, she is working and residing at Chennai. It will be very difficult for her to travel from Chennai to Ponneri to attend each and every hearing of the Court proceedings. In the circumstances, she has filed the present

Transfer civil Miscellaneous Petition to transfer H.M.O.P.No.346 of 2017 from the file of the Sub Court, Ponneri to the file of I Additional Family Court, Chennai to be tried along with H.M.O.P.No.647 of 2018 pending on its file, in order to avoid conflicting decisions being rendered by two different Courts.

4.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.

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.346 of 2017 is ordered to be withdrawn from the file of the Sub Court, Ponneri and transferred to the file of the I Additional Family Court, Chennai to be tried along with H.M.O.P.No.647 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Ponneri is directed to transmit all the records pertaining to H.M.O.P.No.346 of 2017 to the file of the I Additional 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/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

gsa
To

- 1.The I Additional Judge, Family Court, Chennai.
- 2.The Subordinate Judge, Ponneri.

+1cc to Mr.G.ASHOK KUMAR, Advocate, S.R.No. 44853

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TR(31/07/2018)