

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.234 of 2018
and C.M.P.No.6002 of 2018

B.Vanitha

... Petitioner

Vs.

K.Sridhar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.942 of 2017 pending on the file of IV Additional Family Court, Chennai and transfer the same to the file of Sub Court, Tambaram, Kancheepuram District.

For Petitioner : Mr.V.Chinnasamy
For Respondent : Mr.J.Raja Ravivarma

O R D E R

This petition is filed to withdraw H.M.O.P.No.942 of 2017 pending on the file of IV Additional Family Court, Chennai and transfer the same to the file of Sub Court, Tambaram, Kancheepuram District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.11.2014 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Mandaveli, Chennai. Due to difference of opinion, the petitioner and respondent are living separately. The petitioner filed H.M.O.P.No.595 of 2017 before the Subordinate Court, Tambaram, against the respondent for restitution of conjugal rights. The respondent filed H.M.O.P.No.942 of 2017 on the file of IV Additional Family Court, Chennai, against the petitioner for divorce.

3.According to the petitioner, she is residing at Chitlapakkam, Kancheepuram District. The distance between Chitlapakkam and Chennai is more than 25 kilometers and hence it will be very difficult for her to attend the Court proceedings for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.942 of 2017 pending on the file of IV Additional Family Court, Chennai to the file of Sub Court, Tambaram.

4. The learned counsel appearing for the respondent submitted that if H.M.O.P.No.942 of 2017 is transferred to Sub Court, Tambaram, it will be very difficult for the respondent to attend the Court proceedings for each and every hearing and prayed for dismissal of the Tr.C.M.P.

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

6. 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.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.942 of 2017 is ordered to be withdrawn from the file of IV Additional Family Court, Chennai and transferred to the file of Sub Court, Tambaram to be tried along with H.M.O.P.No.595 of 2017 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, IV Additional Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.942 of 2017 to the file of Sub Court, Tambaram, 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/-

सत्यमेव जयते
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

LPP/arr

To

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

2. The Subordinate Judge, Tambaram.

+ 1 cc to M/s. V. Chinnasamy, Advocate SR.50267

Tr.C.M.P. No.234 of 2018
and C.M.P.No.6002 of 2018

CP (CO)

EU (28/08/2018)

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