

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.245 of 2018
and CMP.No.7021 of 2018

S.Sindhu

... Petitioner

Vs.

E.Thrilok Raj

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.648 of 2018 pending on the file of I Additional Family Court, Chennai and transfer the same to the file of Additional Family Court, Coimbatore.

For Petitioner : Mr.S.Sathiyarayanan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.648 of 2018 pending on the file of I Additional Family Court, Chennai and transfer the same to the file of Additional Family Court, Coimbatore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.01.2017 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Chennai along with the parents of the respondent. Due to torture faced by the petitioner at the hands of the respondent, the petitioner's parents took her to Coimbatore. When the respondent went to Coimbatore along with his parents, he threatened the petitioner and hence, the petitioner did not join the respondent and stayed with her parents at Coimbatore. The petitioner filed a petition under Domestic Violence Act before the Judicial Magistrate No.1, Coimbatore in D.V.A.No.4 of 2018. The respondent filed H.M.O.P.No.648 of 2018 for Restitution of conjugal rights before the Family Court, Chennai. The petitioner also filed a petition H.M.O.P.No.332 of 2018 for Divorce before the Additional Family Court, Coimbatore.

3. According to the petitioner, she is living in Coimbatore along with her parents and she is also looking for a job in Coimbatore. The distance between Coimbatore and Chennai is more than 500 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Chennai. Further, she is not having any independent income for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.648 of 2018 pending on the file of I Additional Family Court, Chennai to the file of Additional Family Court, Coimbatore, to try along with H.M.O.P.No.332 of 2018 pending on its file.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through advocate, today there is no representation on behalf of the respondent.

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.648 of 2018 is ordered to be withdrawn from the file of I Additional, Family Court, Chennai and transferred to the file of Additional Family Court, Coimbatore, to be tried along with H.M.O.P.No.332 of 2018 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned I Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.648 of 2018 to the file of Additional Family Court, Coimbatore, 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

arr

To

1.The I Additional Family Court, Chennai.

2.Additional Family Court, Coimbatore.

+1cc to Mr.S.Sathiyarayanan, Advocate, S.R.No.49263

Tr.C.M.P. No.245 of 2018
and CMP.No.7021 of 2018

rrs 05/09/2018



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