

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.257 of 2018
and C.M.P.No.6654 of 2018

Nithya ... Petitioner
Vs.
Nirmalraj ... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.86 of 2016 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Subordinate Court, Cheyyar, to try along with H.M.O.P.No.21 of 2018 pending on its file.

For Petitioner : Mr.T.Ramkumar
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.86 of 2016 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Subordinate Court, Cheyyar, to try along with H.M.O.P.No.21 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 21.08.2015 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home in Chennai along with the parents of the respondent. The respondent got appointment in a reputed Software Company in a responsible post after marriage. After his appointment, he changed his attitude and subjected the petitioner for cruelty. The respondent in the month of February 2016 informed the petitioner that he has to proceed to Bangalore for his employment. Thereafter, the respondent left the petitioner in her village, but he did not take back her to the matrimonial home. The respondent filed H.M.O.P.No.86 of 2016 on the file of the Subordinate Court, Tambaram, declaring the marriage held between the petitioner and respondent as null and void, against the petitioner making false allegations. The petitioner also filed H.M.O.P.No.21 of 2018 before the

Subordinate Court, Cheyyar, against the respondent for restitution of conjugal rights.

3. According to the petitioner, she belongs to lower middle class family and she is staying in a Village, which is seven kilometers from Cheyyar. The distance between Cheyyar and Tambaram is more than 80 kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings at Tambaram. Further, she is not having any independent income for her day-to-day expenses including travelling expenses. She is also taking steps to file an application claiming maintenance against the respondent. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.86 of 2016 pending on the file of the Subordinate Court, Tambaram, to the file of the Subordinate Court, Cheyyar, to try along with H.M.O.P.No.21 of 2018 pending on its file.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of 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.86 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Tambaram and transferred to the file of the Subordinate Court, Cheyyar, to be tried along with H.M.O.P.No.21 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, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.86 of 2016 to the file of the Subordinate Court, Cheyyar, 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 IV)

//True copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Cheyyar.

2.The Subordinate Judge, Tambaram.

+1cc to Mr.T.Ramkumar, Advocate SR.No.29467

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NA (CO)
GN (16/05/2018)



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