

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.279 of 2018
and C.M.P.No.6965 of 2018

S.Manjula Devi

... Petitioner

Vs.

Shivaanand

.... Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.124 of 2017 pending on the file of the Principal Sub Court, Trichy and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.A.Kanagaraj

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.124 of 2017 pending on the file of the Principal Sub Court, Trichy 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 21.04.2016 at S.R.M.Grnads, at Door No.8/9, 200 feet Road, Jeyanthi Nagar, Kulathur, Chennai-99 as per Hindu Rites and Customs. Due to difference of opinion, the respondent filed H.M.O.P.No.124 of 2017 before the Principal Sub Court, Trichy.

3.According to the petitioner, she is residing at Chennai along with her aged mother. The respondent is also not residing at Trichy and he is residing at Noida. She is not having father and she has resigned her job and she is not having any independent income to look after her day-to-day expenses, including traveling expenses. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.124 of 2017 pending on the file of the

Principal Sub Court, Trichy to the file of the Family Court, Chennai.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, 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.124 of 2017 is ordered to be withdrawn from the file of the Principal Sub Court, Trichy and transferred to the file of the Family Court, Chennai. The learned Principal Subordinate Judge, Trichy, is directed to transmit all the records pertaining to H.M.O.P.No.124 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/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gsa
To

1. The Principal Subordinate Judge,
Trichy.

2. The Family Court Judge,
Chennai.

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