

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.302 of 2018
and C.M.P.No.7643 of 2018

D.Bharathy

... Petitioner

Vs.

Balaji

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.706 of 2017 pending on the file of the Sub Court, Tambaram and transfer the same to the file of the Sub Court, Poonamallee.

For Petitioner : Mr.P.Sunil
for Mr.K.P.Shanthosh

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.706 of 2017 pending on the file of the Sub Court, Tambaram and transfer the same to the file of the Sub Court, Poonamallee.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 13.02.2011. After marriage, both were residing in the matrimonial home at West Tambaram. In the wedlock, a male child was born on 10.07.2012. Due to difference of opinion, both of them are living separately. The petitioner is residing along with her parents at Avadi. While so, the respondent filed H.M.O.P.No.706 of 2017 on the file of the Sub Court, Tamabaram, against the petitioner for divorce.

3.According to the petitioner, she is residing along with her parents at Avadi and depending on them for maintaining herself and the minor child. Her father is a aged person. Being a lady it is very difficult for her to attend each and every Court proceedings in H.M.O.P.No.706 of 2017 before the Sub Court at Tambaram. In the circumstances, the petitioner has come out

with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.706 of 2017 pending on the file of the Sub Court, Tambaram, to the file of the Sub Court, Poonamallee, which is only 10 kilometers away from her residence.

4.Heard the learned 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 on behalf of the respondent 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.706 of 2017 is ordered to be withdrawn from the file of the Sub Court, Tambaram and transferred to the file of the Sub Court, Poonamallee. The learned Subordinate Judge, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.706 of 2017 to the file of the Sub Court, Poonamallee 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-)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

LPP/gsa

To

1.The Subordinate Judge, Tambaram.

2.The Subordinate Judge, Poonamallee.

+1cc to Mr.K.P.Santhosh, Advocate, sr.36109

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GSP (22/06/2018)