



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.304 of 2018
and C.M.P.No.7703 of 2018

Nathiya

... Petitioner/Respondent

Vs.

Sridhar

... Respondent/Petitioner

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.43 of 2015 pending on the file of the Sub Court, Attur and transfer the same to the file of the Sub Court, Perambalur to be tried along with H.M.O.P.No.54 of 2015.

For Petitioner : Mr.G.Peranban

For Respondent : No Appearance

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.43 of 2015 pending on the file of the Sub Court, Attur and transfer the same to the file of the Sub Court, Perambalur to be tried along with H.M.O.P.No.54 of 2015.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 16.09.2011 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Perambalur. In the wedlock, a female child was born on 18.12.2012.

3.According to the petitioner, the respondent and his family members tortured the petitioner and the minor daughter and thrown them out of the matrimonial home. The petitioner lodged a



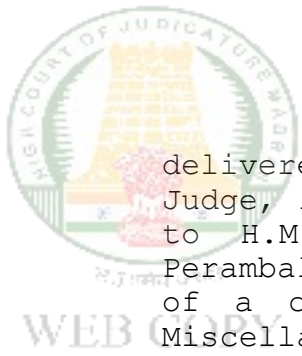
complaint before the All Women Police Station, Perambalur, wherein the Investigation Officer advised the respondent to protect the petitioner and child. While so, the respondent had filed H.M.O.P.No.43 of 2015 on the file of the Sub Court, Attur for divorce on the ground of cruelty, making false and frivolous allegations. The petitioner has filed H.M.O.P.No.54 of 2015 before Sub Court, Perambalur for restitution of conjugal rights and M.C.No.19 of 2015 before the Chief Judicial Magistrate, Perambalur, seeking maintenance and the same are pending.

4. According to the learned counsel for the petitioner, the petitioner's permanent address is at Salem and after desertion, now she is residing in Perambalur along with the minor child. It will be very difficult for her to travel from Perambalur to Attur to attend each and every hearing along with the minor child. The respondent is an influential person and is threatening the petitioner and the minor child. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.43 of 2015 pending on the file of the Sub Court, Attur to the file of the Sub Court, Perambalur to be tried along with H.M.O.P.No.54 of 2015 in order to avoid conflicting decisions being delivered by two different Courts.

5. 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 for him either in person or through counsel.

6. 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.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.43 of 2015 is ordered to be withdrawn from the file of the Sub Court, Attur and transferred to the file of the Sub Court, Perambalur to be tried along with H.M.O.P.No.54 of 2015 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being



delivered by two different Courts. The learned Subordinate Judge, Attur is directed to transmit all the records pertaining to H.M.O.P.No.43 of 2015 to the file of the Sub Court, Perambalur 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(CCC)

//True Copy//

Sub Assistant Registrar

gsa
To

1.The Subordinate Judge,
Attur.

2.The Subordinate Judge,
Perambalur.

Copy to

The Chief Judicial Magistrate,
Perambalur.

+1cc to Mr.S.Senthamilselvan, Advocate Sr.37362

Tr.C.M.P.No.304 of 2018
and C.M.P.No.7703 of 2018

mr[co]
srg 16/07/2018