

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.325 of 2018
and C.M.P.No.8269 of 2018

Booma Amirthavalli

... Petitioner

Vs.

Lakshmi Narasimhan

.... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.4518 of 2013 pending on the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Arani or any other Court in Thiruvannamalai District.

For Petitioner : Mr.M.Manohar

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.4518 of 2013 pending on the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Arani or any other Court in Thiruvannamalai District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 29.10.2007 as per Hindu Rites and Customs. After marriage, both of them were living together in the matrimonial home at Triplicane. In the wedlock, a female child was born on 21.09.2008. The respondent and his parents tortured the petitioner by demanding dowry and thrown her out from the matrimonial home. While so, the respondent filed H.M.O.P.No.1091 of 2011 before the Family Court, Chennai for divorce on the ground of cruelty and the same was closed. Again the respondent filed H.M.O.P.No.4518 of 2013 on the file of the VII Additional Family Court, Chennai for divorce on the ground of desertion.

3.According to the petitioner, she is residing at Arani along with the minor child. The distance between Arani and Chennai is more than 140 kms and hence, it will be very difficult for her to travel such a long distance to attend each and every hearing. In the circumstances, she has filed the present transfer civil Miscellaneous Petition to transfer

H.M.O.P.No.4518 of 2013 from the file of the VII Additional Family Court, Chennai to the file of Sub Court at Arani or any other Court in Thiruvannamalai District.

4.Heard the 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.

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.4518 of 2013 is ordered to be withdrawn from the file of the VII Additional Family Court, Chennai and transferred to the file of the Sub Court, Arani. The learned VII Additional Judge, Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.4518 of 2013 to the file of the Sub Court, Arani 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.

gsa

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

To

1.The VII Additional Judge, Family Court, Chennai.

2.The Subordinate Judge, Arani.

+ 1 cc to Mr.G. Rajan, Advocate Sr.44822

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(CS-VII)
EU(01/08/2018)