

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.346 of 2018

and C.M.P.No.8992 of 2018

Pricilla Anthony Rose

... Petitioner

Vs.

Dominic Xavio

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.9 of 2018 pending on the file of Principal District Court, Krishnagiri and to transfer the same to the file of Family Court, Coimbatore.

For Petitioner : Mr.U.Manogar for
Mr.P.Chandrasekar

For Respondent : Mr.A.R.Nixon

O R D E R

This petition is filed to withdraw I.D.O.P.No.9 of 2018 pending on the file of Principal District Court, Krishnagiri and to transfer the same to the file of Family Court, Coimbatore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnised on 20.08.2012 as per Christian rites and customs. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed I.D.O.P.No.9 of 2018 on the file of Principal District Court, Krishnagiri, for divorce making various allegations, against the petitioner.

3.According to the petitioner, she is working as a Teacher in a school by name Sarva Shiksha Abhiyan at Coimbatore. The distance between Coimbatore and Krishnagiri is nearly 300 kilometers and hence it will be very difficult for her to travel such a long distance to attend the Court proceedings at Krishnagiri. The respondent is a Government school teacher and now he is working at Government Adi Dravida Higher Secondary School, Attapadipudur, Palakkad District. He has filed divorce petition before the Court at Krishnagiri only to harass the petitioner. If H.M.O.P. is transferred to Family Court,

Coimbatore, it will be convenient for both the petitioner and respondent. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer I.D.O.P.No.9 of 2018 pending on the file of Principal District Court, Krishnagiri, to the file of Family Court, Coimbatore.

4.The learned counsel for the respondent filed counter and contended that in Family Court, presence of spouse is mandatory for each and every hearing, whereas in Principal District Court, presence of petitioner is not necessary for all the hearings and she can represent through her counsel. He further contended that the petitioner has come out with the present Transfer Petition only to drag on the proceedings and prayed for dismissal of the Transfer Petition.

5.Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

6.Considering the above contention of the learned counsel for the petitioner as well as the respondent 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in I.D.O.P.No.9 of 2018 is ordered to be withdrawn from the file of Principal District Court, Krishnagiri and transferred to the file of Family Court, Coimbatore. The learned Principal District Judge, Krishnagiri, is directed to transmit all the records pertaining to I.D.O.P.No.9 of 2018 to the file of Family Court, Coimbatore, 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 VII)

//True Copy//

Sub Assistant Registrar

To

1.The Principal District Judge, Krishnagiri.

2.The Judge, Family Court, Coimbatore.

+lcc to Mr.P.Chadrasedkar, Advocate, S.R.No.45957

+lcc to Mr.A.R.Nixon, Advocate, S.R.No.46682

Tr.C.M.P. No.346 of 2018
and C.M.P.No.8992 of 2018

AK (CO)
GSP (07/08/2018)



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