

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.363 of 2018
and C.M.P.No.9853 of 2018

Subashini

... Petitioner

Vs.

Velayutham

.... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.144 of 2018 pending on the file of Family Court, Salem and transfer the same to the file of Sub Court, Chidambaram.

For Petitioner : Mr.T.Gobinath

For Respondent : Mr.N.Nalliyappan

O R D E R

This petition is filed to withdraw F.C.O.P.No.144 of 2018 pending on the file of Family Court, Salem and transfer the same to the file of Sub Court, Chidambaram.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.03.2017 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Seelanaickenpatti. The respondent abandoned the petitioner and went to Malaysia for job. While so, the respondent filed F.C.O.P.No.144 of 2018 on the file of Family Court, Salem against the petitioner for divorce.

3.According to the petitioner, she is residing at Chidambaram Taluk, Cuddalore District along with aged parents. The distance between Cuddalore and Salem is more than 408 kms to and fro and hence, it will be very difficult for her to travel such a long distance to attend each and every hearings along with aged father. She is not having any independent income and depending on her parents for her day-to-day expenses, including travelling expenses. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer F.C.O.P.No.144 of 2018 pending on the file of Family Court, Salem to the file of the Sub Court, Chidambaram.

4.The learned counsel for the respondent submitted that respondent is working at Malaysia and hence, has filed F.C.O.P.No.144 of 2018 through his father, the Power Agent before the Family Court at Salem. If F.C.O.P.No.144 of 2018 is transferred to Chidambaram, it will be very difficult for his father to travel from Salem to Chidambaram to attend each and every hearing.

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

6.Considering the above contention of the learned counsel for the petitioner that the respondent can enter appearance through an Advocate if the case is transferred to Sub Court at Chidambaram as well as the contention of the respondent and the 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 F.C.O.P.No.144 of 2018 is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of Sub Court, Chidambaram. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to F.C.O.P.No.144 of 2018 to the file of the Sub Court, Chidambaram, 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/-

सत्यमेव जयते
Assistant Registrar

// True Copy//

WEB COPY
Sub Assistant Registrar

To

- 1.The Judge, Family Court, Salem.
- 2.The Subordinate Judge, Chidambaram.

+1cc to Mr.T.Gobinath, Advocate SR.No.49877
+1cc to Mr.R.Nalliyappan, Advocate SR.No.50125

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SV (CO)

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