

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.365 of 2018
and C.M.P.No.9903 of 2018

Mythili @ Bharani

.. Petitioner

Vs.

R.Babu @ Prabhu

... Respondent

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.32 of 2018 pending on the file of the Principal Sub Court, Thuraiyur and transfer the same to the file of the Family Court, Erode or to any other Court having competent jurisdiction at Erode.

For Petitioner : Mr.E.Durai Vaiyapuri
for Mr.N.Manokaran

For Respondent : No Appearance

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.32 of 2018 pending on the file of the Principal Sub Court, Thuraiyur and transfer the same to the file of the Family Court, Erode or to any other Court having competent jurisdiction at Erode.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 29.05.2015 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Erode. In the wedlock, a male child was born. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the respondent filed H.M.O.P.No.32 of 2018 before the Principal Sub Court at Thuraiyur for restitution of conjugal rights.

3.According to the petitioner, she is residing at Erode along with her parents and minor child. She is not having any independent income to maintain her day-to-day expenses, including travelling expenses. The distance between Erode and Thuraiyur is 500 kms to and fro and hence, it will be very difficult for her to travel such a long distance to attend each and every hearing before Principal Sub Court, Thuraiyur. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.32 of 2018

pending on the file of the Principal Sub Court, Thuraiyur to the file of the Family Court at Erode.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent through Court as well as privately 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.32 of 2018 is ordered to be withdrawn from the file of the Principal Sub Court, Thuraiyur and transferred to the file of the Family Court, Erode. The learned Principal Subordinate Judge, Thuraiyur is directed to transmit all the records pertaining to H.M.O.P.No.32 of 2018 to the file of the Family Court, Erode 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

gsa

To

- 1.The Judge, Family Court, Erode.
- 2.The Principal Subordinate Judge, Thuraiyur.

+1cc to Mr.N.Manokaran, Advocate Sr.No.43347

sm:17.7.2018

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