

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.370 of 2018
and C.M.P.No.10001 of 2018

A.Vidya Devi

.. Petitioner

Vs.

M.Anand

.. Respondent

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.286 of 2016 pending on the file of the Family Court, Tiruchirapalli and transfer the same to the file of the Sub Court, Attur.

For Petitioner : Mr.S.Venkatesh
for Mr.S.Kumara Devan

For Respondent : No Appearance

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.286 of 2016 pending on the file of the Family Court, Tiruchirapalli and transfer the same to the file of the Sub Court, Attur.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 25.02.2010 as per Hindu Rites and Customs. In the wedlock, a female child was born on 10.07.2011. Due to the torture given by the respondent and his family members, the petitioner left the matrimonial home. While so, the respondent filed H.M.O.P.No.286 of 2016 before the Family Court at Tiruchirapalli for divorce, making false allegations. The petitioner has filed M.C.No.36 of 2017 before the Judicial Magistrate No.1, Attur. In the said M.C.No.36 of 2017, the respondent was directed to pay Rs.3,000/- per month to the petitioner. Challenging the said order, the respondent filed Crl.R.C.No.335 of 2018 and the same is pending before this Court.

3.According to the petitioner, she is residing at Attur, Salem District along with her parents and minor child. The distance between Attur and Tiruchirapalli is more than 150 kms and hence, being a lady, it will be very difficult for her to travel such a long distance to attend each and every hearing

before Family Court, Tiruchirapalli along with the minor child. Her mother is suffering from hypertension and she is a diabetic patient. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.286 of 2016 pending on the file of the Family Court, Tiruchirapalli to the file of the Sub Court, Attur.

4.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.

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.286 of 2016 is ordered to be withdrawn from the file of the Family Court, Tiruchirapalli and transferred to the file of the Sub Court, Attur. The learned Judge, Family Court, Tiruchirapalli is directed to transmit all the records pertaining to H.M.O.P.No.286 of 2016 to the file of the Sub Court, Attur 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.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

gsa

To

- 1.The Judge, Family Court, Tiruchirapalli.
- 2.The Subordinate Judge, Attur.

+1 CC to Mr.S.Kumara Devan Advocate sr 45491.

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SP(01/08/2018)