

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.397 of 2018
and C.M.P.No.10518 of 2018

Archana

... Petitioner

Vs.

Saravanan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.108 of 2018 pending on the file of Family Court, Puducherry and transfer the same to the file of Family Court, Chennai.

For Petitioner : Mr.S.C.Vishwanth
For Respondent : Mr.E.Anbarasan

O R D E R

This petition is filed to withdraw H.M.O.P.No.108 of 2018 pending on the file of Family Court, Puducherry and transfer the same to the file of Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.06.2013 as per Hindu rites and customs. In the wedlock, a male child was born on 21.04.2015. The respondent and his mother tortured the petitioner and did not take her to the matrimonial home. While so, the respondent filed H.M.O.P.No.108 of 2018 on the file of Family Court, Puducherry for divorce.

3.According to the petitioner, she is working and residing at Chennai along with the minor son. The minor son is studying at Cambridge Mat. Hr. Sec. School, Chennai. The distance between Chennai and Puducherry is more than 300 kilometers to and fro and hence, being a lady, it will be very difficult for her to travel such a long distance to attend each and every hearings leaving behind the minor son. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.108 of 2018 pending on the file of Family Court, Puducherry to the file of the Family Court at Chennai.

affidavit and denied all the allegations made against the respondent. He submitted that the respondent is working as a Government servant in the Puducherry Government and taking care of his aged parents. Hence, it will be very difficult for him to go to Chennai to attend each and every hearings, leaving behind his aged parents and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

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

6. The Transfer Civil Miscellaneous Petition is opposed by the respondent on the ground that he is the Government servant and he is taking care of his aged parents and it is very difficult for him to leave them to attend hearing at Chennai. These grounds are not valid grounds for dismissal of the Transfer Civil Miscellaneous Petition. As per the judgment of the Hon'ble Supreme Court 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. In view of the above judgments of the Hon'ble Apex Court and provisions of Hindu Marriage Act, H.M.O.P.No.108 of 2018 is to be transferred to the Family Court at Chennai.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.108 of 2018 is ordered to be withdrawn from the file of Family Court, Puducherry and transferred to the file of Family Court, Chennai. The learned Judge, Family Court, Puducherry is directed to transmit all the records pertaining to H.M.O.P.No.108 of 2018 to the file of the Family Court at Chennai, 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/-

Deputy Registrar

// True Copy//

Sub Assistant Registrar

To

1. The Judge, Family Court, Puducherry.
2. The Judge, Family Court, Chennai.

+1cc to Mr.S.C.Vishwanth, Advocate SR.No.48992

+1cc to Mr.Anbarasan, Advocate SR.No.49224

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