

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.427 of 2018
and C.M.P.No.10990 of 2018

S.Thenmozhi

... Petitioner

Vs.

A.Senthilkumar

... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.63 of 2018 pending on the file of the Sub Court, Perambalur and transfer the same to the file of the Family Court, Salem, to be tried along with M.C.No.14 of 2018 pending on its file.

For Petitioner : Mr.S.Suresh Kumar

For Respondent : Dr.G.Babu

O R D E R

This petition is filed to withdraw H.M.O.P.No.63 of 2018 pending on the file of the Sub Court, Perambalur and transfer the same to the file of the Family Court, Salem, to be tried along with M.C.No.14 of 2018 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.05.2015 as per Hindu Rites and Customs. In the wed-lock, a male child was born. The respondent ill-treated the petitioner and he has thrown her out from the matrimonial home. While so, the petitioner filed D.V.C.No.30 of 2018 before the Mahila Court, Salem and M.C.No.14 of 2018 under Section 125 of Cr.P.C before the Family Court, Salem to maintain daily livelihood of herself and minor child, which are pending before the respective Courts. The respondent filed H.M.O.P.No.63 of 2018 before the Sub Court, Perambalur for restitution of conjugal rights.

3.According to the petitioner, she is residing at Salem along with her aged mother and minor child. The distance between Salem and Perambalur is 92 kms and it will be very difficult for her to travel from Salem to Perambalur to attend the Court proceedings for each and every hearing. She is not having any independent income and depending on her mother for her day-to-day expenses, including the traveling expenses. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.63 of 2018 from

the file of the Sub Court, Perambalur to the file of Family Court, Salem, to be tried along with M.C.No.14 of 2018.

4.The learned counsel for the respondent submitted that the respondent is working as a Government servant at Perambalur and it will be very difficult for him take leave often and travel such a long distance to attend each and every hearing in the Family Court at Salem. Hence, he prayed for dismissal of the Transfer Civil Miscellaneous Petition.

5.Heard the 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 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. 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 H.M.O.P.No.63 of 2018 is ordered to be withdrawn from the file of the Sub Court, Perambalur and transferred to the file of the Family Court, Salem, to be tried along with M.C.No.14 of 2018 filed by the petitioner. The learned Subordinate Judge, Perambalur is directed to transmit all the records pertaining to H.M.O.P.No.63 of 2018 to the file of the Family Court, Salem 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 Judge, Family Court, Salem.
- 2.The Subordinate Judge, Perambalur.

+1cc to Mr.Mr.S.Suresh Kumar, Advocate SR.No.46669

Tr.C.M.P.No.427 of 2018
and C.M.P.No.10990 of 2018

KJI (CO)
SMI/10.08.2018

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