

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.428 of 2018
and C.M.P.No.11073 of 2018

C.Bhuvaneshwari

... Petitioner

Vs.

M.Vengatesan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.321 of 2017 pending on the file of the Family Court, Salem and transfer the same to the file of the Sub Court, Neyveli.

For Petitioner : Mr.M.R.Franklin

For Respondent : No appearance

O R D E R

This petition is filed to withdraw F.C.O.P.No.321 of 2017 pending on the file of the Family Court, Salem and transfer the same to the file of the Sub Court, Neyveli.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.04.2007 as per Hindu rites and customs. In the wedlock, a female child was born on 16.04.2011. Due to harassment by the respondent and his family members, the petitioner left the matrimonial home. While so, the respondent filed F.C.O.P.No.321 of 2017 on the file of Family Court, Salem for divorce, making false allegations against the petitioner.

3.According to the petitioner, she is working as a teacher in a Government School at Cuddalore and staying along with her minor daughter at Neyveli. The distance between Neyveli and Salem is more than 143 kilometers and hence, being a lady, it will be very difficult for her to travel such a long distance to attend each and every hearing with the minor daughter. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer F.C.O.P.No.321 of 2017 pending on the file of Family Court, Salem to the file of the Sub Court at Neyveli.

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 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.

6.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in F.C.O.P.No.321 of 2017 is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of Sub Court, Neyveli. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to F.C.O.P.No.321 of 2017 to the file of the Sub Court at Neyveli, 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,
Neyveli.

+1cc to Mr.M.R.Franklin, Advocate SR.No.52819

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SMI/31.08.2018