

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.430 of 2018  
and C.M.P.No.11082 of 2018

D.Jayalakshmi@ Radha

... Petitioner

Vs.

V.Natarajan

....Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.345 of 2017 pending on the file of Sub Court at Ponneri and transfer the same to the file of Sub Court, at Tambaram or any other Sub Court at Chengalpattu District.

For Petitioner : Mr.K.Nagarajan

For Respondent : Ms.G.Radhika  
for M/s.H.Adaikala Arokiaraj

O R D E R

This petition is filed to withdraw H.M.O.P.No.345 of 2017 pending on the file of Sub Court, at Tambaram or any other Sub Court at Chengalpattu.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.02.2012 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Old Nappalayam, Chennai. In the wedlock two children were born to them. Due to difference of opinion both the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.345 of 2017 on the file of the Sub Court, Ponneri, for divorce.

3.According to the petitioner, she is living with her minor Children in her parental home at Mudichur, Chennai. The distance between Mudichoor and Ponneri is more than 75 kilometers and being a lady, it will be very difficult for her to go to Ponneri to attend the Court proceedings for each and every hearing. Further, the petitioner has no independent income and is depending on her parents to maintain herself and her minor children. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.345

of 2017 pending on the file of Sub Court, Ponneri, to the file of the Sub Court, Tambaram.

4.The learned counsel for the respondent submitted that the respondent is residing at Ponneri and it will be very difficult for him to travel from Ponneri to Tambaram to attend the Court proceedings and prayed for dismissal of the transfer petition.

5.Heard the learned 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.345 of 2017 is ordered to be withdrawn from the file of the Sub Court, Ponneri and transferred to the file of Sub Court, Tambaram. The learned Subordinate Judge, Ponneri, is directed to transmit all the records pertaining to H.M.O.P.No.345 of 2017 to the file of the Sub Court, Tambaram 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 IV)

//True Copy//

Sub Assistant Registrar

arr  
To

- 1.The Subordinate Judge, Tambaram
- 2.The Subordinate Judge, Ponneri

+lcc to Mr.H.Adaikala Arokiaraj, Advocate SR.NO.49446  
+lcc to Mr.K.Nagarajan, Advocate SR.NO.49790

SVN(CO)  
sm:28.8.2018