

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.435 of 2018
and C.M.P.No.11168 of 2018

L.Hemalatha

... Petitioner

Vs.

M.Rajiv Gandhi

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.63 of 2017 pending on the file of Sub Court, Gingee and transfer the same to the file of Sub Court, Tambaram.

For Petitioner : Mr.M.Rajendiran

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.63 of 2017 pending on the file of Sub Court, Gingee and transfer the same to the file of Sub Court, Tambaram.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 16.06.2016 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together at her parent's house. On the instigation of his parents, the respondent tortured the petitioner by demanding dowry and deserted her. While so, the respondent filed H.M.O.P.No.63 of 2017 on the file of Sub Court, Gingee, for divorce against the petitioner.

3.According to the petitioner, she is residing along with her parents and minor children at Mudichur, Chennai. The distance between Mudichur, Chennai and Gingee is more than 150 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Gingee. Further, she is not having any independent income and is depending upon her parents for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has

come out with the present Tr.C.M.P. to transfer H.M.O.P.No.63 of 2017 pending on the file of Sub Court, Gingee, to the file of Sub Court, Tambaram.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through advocate, today there is no representation on behalf of the respondent.

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.63 of 2017 is ordered to be withdrawn from the file of Sub Court, Gingee and transferred to the file of Sub Court, Tambaram. The learned Subordinate Judge, Gingee, is directed to transmit all the records pertaining to H.M.O.P.No.63 of 2017 to the file of 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(Audit)

//True Copy//

Sub Assistant Registrar

To

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

+1cc to Mr.M.Rajendiran, Advocate, S.R.No.48298

Tr.C.M.P. No.435 of 2018
and C.M.P.No.11168 of 2018

GJII(CO)
GSP(31/08/2018)