

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.444 of 2018
and C.M.P.No.11330 of 2018

Kannathal

... Petitioner

Vs.

Senthil Kumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.31 of 2018 pending on the file of Principal Sub Court, Viruthachalam, Cuddalore District and transfer the same to the file of Sub Court, Devakottai, Sivagangai District.

For Petitioner : Mr.P.Sidharthan

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.31 of 2018 pending on the file of Principal Sub Court, Viruthachalam, Cuddalore District and transfer the same to the file of Sub Court, Devakottai, Sivagangai District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 06.05.2013 as per Hindu rites and customs. Due to torture by the respondent, the petitioner left the matrimonial home. The respondent filed H.M.O.P.No.123 of 2016 against the petitioner on the file of the Principal Sub Court, Viruthachalam, for restitution of conjugal rights and the same was dismissed for default on 02.08.2017. The respondent again filed H.M.O.P.No.31 of 2018 on the file of the Principal Sub Court, Viruthachalam, Cuddalore District, for restitution of conjugal rights.

3.According to the petitioner, she is residing in Okkur, Sivagangai District along with her sister. She is not having any independent income and depending on her sister for maintaining her day-to-day expenses, including travelling expenses. The distance between her village at Sivagangai District and Viruthachalam is more than 400 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 hearing without any assistance. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.31 of 2018 pending on the file of Principal Sub Court, Viruthachalam, Cuddalore District, to the file of the Sub Court at Devakottai, Sivagangai District.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent through lower Court counsel 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 H.M.O.P.No.31 of 2018 is ordered to be withdrawn from the file of Principal Sub Court, Viruthachalam, Cuddalore District and transferred to the file of Sub Court, Devakottai, Sivagangai District. The learned Principal Subordinate Judge, Viruthachalam is directed to transmit all the records pertaining to H.M.O.P.No.31 of 2018 to the file of the Sub Court, Devakottai, Sivagangai District, 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.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Principal Subordinate Judge,
Viruthachalam, Cuddalore District.

2.The Subordinate Judge,
Devakottai, Sivagangai District.

+2cc to Mr.P.Sidharthan, Advocate, S.R.No.52024

Tr.C.M.P. No.444 of 2018
and C.M.P.No.11330 of 2018

rrs 06/09/2018



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