

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.446 of 2018

and C.M.P.No.11444 of 2018

R.Dhivya

... Petitioner

Vs.

G.Ilayaperumal

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1 of 2018 pending on the file of Sub Court, Gingee and transfer the same to the file of Family Court, Puducherry, to be tried along with M.O.P.No.142 of 2018 pending on its file.

For Petitioner : Mr.R.Thiagarajan

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.1 of 2018 pending on the file of Sub Court, Gingee and transfer the same to the file of Family Court, Puducherry, to be tried along with M.O.P.No.142 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 08.04.2013 before the District Registrar Office at Cuddalore and the same was registered. The marriage was registered under coercion and threat from the respondent. The petitioner filed M.O.P.No.142 of 2018 before the Family Court at Puducherry for divorce against the respondent. The respondent filed H.M.O.P.No.1 of 2018 before the Sub Court, Gingee for restitution of conjugal rights.

3.According to the petitioner, she is residing at Puducherry along with her parents. Being a lady, it will be very difficult for her to travel from Puducherry to Gingee to attend each and every hearing. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.1 of 2018 pending on the file of Sub Court, Gingee to the file of the Family Court, Puducherry, to be tried along with M.O.P.No.142 of 2018 pending on its file, in order to avoid conflicting decisions being rendered by two different Courts.

4.Heard the learned counsel for the petitioner and 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 H.M.O.P.No.1 of 2018 is ordered to be withdrawn from the file of Sub Court, Gingee and transferred to the file of Family Court, Puducherry to be tried along with M.O.P.No.142 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting decisions being rendered by two different Courts. The learned Subordinate Judge, Gingee is directed to transmit all the records pertaining to H.M.O.P.No.1 of 2018 to the file of the Family Court, Puducherry, 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.

gsa

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Gingee.

2.The Judge, Family Court, Puducherry.

+1cc to MR.R.Thiagarajan, Advocate SR.NO.49701

GP(CO)

sm:7.9.2018

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