

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.447 of 2018
and C.M.P.No.11445 of 2018

Suganya

... Petitioner

Vs.

Jephin

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw S.M.O.P.No.434 of 2018 pending on the file of Additional Family Court, Coimbatore and transfer the same to the file of VII Additional Family Court, Chennai.

For Petitioner : Mr.T.Elumalai

For Respondent : No appearance

O R D E R

This petition is filed to withdraw S.M.O.P.No.434 of 2018 pending on the file of Additional Family Court, Coimbatore and transfer the same to the file of VII Additional Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 10.04.2017. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the petitioner filed O.S.No.117 of 2018 on the file of VII Additional Family Court, Chennai, for declaration that the marriage conducted between the petitioner and respondent as null and void, against the respondent. The respondent filed S.M.O.P.No.434 of 2018 on the file of Additional Family Court, Coimbatore, for restitution of conjugal rights, against the petitioner.

3.According to the petitioner, she is residing at Chennai. The distance between Chennai and Coimbatore is more than 500 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings for each and every hearing at Family Court, Coimbatore. Further, she is not having any independent income to meet out 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 S.M.O.P.No.434 of 2018 pending on the file of Additional Family Court, Coimbatore, to the file of VII Additional Family Court, Chennai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

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.

6.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in S.M.O.P.No.434 of 2018 is ordered to be withdrawn from the file of Additional Family Court, Coimbatore and transferred to the file of VII Additional Family Court, Chennai, to be tried along with O.S.No.117 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, Additional Family Court, Coimbatore, is directed to transmit all the records pertaining to S.M.O.P.No.434 of 2018 to the file of VII Additional Family Court, Chennai, 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 V)

//True Copy//

Sub Assistant Registrar

LPP

To

- 1.The Judge, Additional Family Court, Coimbatore.
- 2.The Judge, VII Additional Family Court, Chennai

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CS/31/08/18