

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.454 of 2018
and C.M.P.No.11611 of 2018

G.Nandhini

... Petitioner

Vs.

S.Vijaya Krishnaraj

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.6 of 2018 pending on the file of Sub Court, Sankari and transfer the same to the file of Additional Special Court, Krishnagiri District.

For Petitioner : Mr.K.Nagendra Prasad

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.6 of 2018 pending on the file of Sub Court, Sankari and transfer the same to the file of Additional Special Court, Krishnagiri District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 02.03.2015 as per Hindu rites and customs. Due to torture and cruelty by the respondent and his family members, the petitioner left the matrimonial home and filed H.M.O.P.No.105 of 2017 before the Principal Sub Court, Krishnagiri against the respondent for divorce on the ground of cruelty and the same is transferred to Additional Special Court at Krishnagiri. While so, the respondent filed H.M.O.P.No.6 of 2018 on the file of the Sub Court, Sankari for restitution of conjugal rights against the petitioner.

3.According to the petitioner, she is working as teacher in Government High School at Kottukarampatti, Uthangari (Block), Krishnagiri District. It is very difficult for her to travel from Krishnagiri to Sankari 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.6 of 2018 pending on the file of Sub Court, Sankari

to the file of the Additional Special Court at Krishnagiri.

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.6 of 2018 is ordered to be withdrawn from the file of Sub Court, Sankari and transferred to the file of Additional Special Court, Krishnagiri District. The learned Subordinate Judge, Sankari is directed to transmit all the records pertaining to H.M.O.P.No.6 of 2018 to the file of the Additional Special Court, Krishnagiri 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.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

To

1.The Additional Special Judge, Krishnagiri District.

2.The Subordinate Judge, Sankari.

+1cc to Mr.K.Nagendraprasad, Advocate SR.No.49682

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SV (CO)
SMI/30.08.2018