

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.469 of 2018
and C.M.P.No.11722 of 2018

Kanimozhi

... Petitioner

Vs.

D.Vignaraj

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.120 of 2018 pending on the file of Principal Sub Court, Kumbakonam and transfer the same to the file of Family Court, Coimbatore.

For Petitioner : Ms.J.Vinodha
for Mr.N.Ponraj

For Respondent : Mr.P.Saravanan

O R D E R

This petition is filed to withdraw H.M.O.P.No.120 of 2018 pending on the file of Principal Sub Court, Kumbakonam and transfer the same to the file of Family Court, Coimbatore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 29.05.2017 as per Hindu rites and customs. In the wedlock, a male child was born on 04.06.2018. Due to the torture and cruelty by the respondent and his family members, the petitioner left the matrimonial home and is residing along with her mother at Coimbatore. The respondent filed H.M.O.P.No.120 of 2018 on the file of Principal Sub Court, Kumbakonam for divorce.

3.According to the petitioner, she is residing at Coimbatore along with her aged mother and minor son. The distance between Coimbatore and Kumbakonam is more than 300 kilometers and hence, being a lady, it will be very difficult for her to travel such a long distance to attend each and every hearing along with the minor son. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.120 of 2018 pending on the file of Principal Sub Court, Kumbakonam, to the file of the Family Court at Coimbatore.

4.The learned counsel for the respondent submitted that the respondent has no objection for transferring H.M.O.P.No.120 of 2018 pending on the file of the Principal Sub Court, Kumbakonam to any other Court at Coimbatore, other than the Family Court, where he has to appear for all the hearings.

5.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6.Considering the above contention of the learned counsel for the petitioner as well as the respondent 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.120 of 2018 is ordered to be withdrawn from the file of Principal Sub Court, Kumbakonam and transferred to the file of Family Court, Coimbatore. The learned Principal Subordinate Judge, Kumbakonam, is directed to transmit all the records pertaining to H.M.O.P.No.120 of 2018 to the file of the Family Court at Coimbatore, 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

gsa

To

- 1.The Principal Subordinate Court, Kumbakonam.
- 2.The Judge, Family Court, Coimbatore.

+1cc to Mr.N.Ponraj, Advocate, S.R.No.53714

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rrs 06/09/2018