

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.471 of 2018
and C.M.P.No.11766 of 2018

M.C.Sabaritha

... Petitioner

Vs.

T.Dayanidhi

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.231 of 2017 pending on the file of II Additional Sub Court, Coimbatore and transfer the same to the file of Sub Court, Nagercoil, Kanyakumari District.

For Petitioner : Mr.J.Titus Enock
For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.231 of 2017 pending on the file of II Additional Sub Court, Coimbatore and transfer the same to the file of Sub Court, Nagercoil, Kanyakumari District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.08.2015 as per Hindu rites and customs. The respondent at the instigation of his mother, treated the petitioner cruelly and thrown her out from the matrimonial home and filed H.M.O.P.No.231 of 2017 against the petitioner on the file of II Additional Sub Court, Coimbatore for divorce.

3.According to the petitioner, she is residing at Nagercoil, Kanyakumari District along with her aged parents. The distance between Nagercoil and Coimbatore is more than 550 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. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.231 of 2017 pending on the file of II Additional Sub Court, Coimbatore to the file of the Sub Court, Nagercoil, Kanyakumari District.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent privately 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.231 of 2017 is ordered to be withdrawn from the file of II Additional Sub Court, Coimbatore and transferred to the file of Sub Court, Nagercoil, Kanyakumari District. The learned II Additional Subordinate Judge, Coimbatore is directed to transmit all the records pertaining to H.M.O.P.No.231 of 2017 to the file of the Sub Court, Nagercoil, Kanyakumari 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.

s/d-

Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

To

- 1.The II Additional Subordinate Judge, Coimbatore.
- 2.The Subordinate Judge, Nagercoil, Kanyakumari District.

+1 CC to Mr.J.Titus Enock Advocate sr 51814.

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SP(04/09/2018)