

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.475 of 2018
and C.M.P.No.11821 of 2018

Niranjani

... Petitioner

Vs.

S.Suneel Kumar

.... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.405 of 2018 pending on the file of II Additional Family Court, Chennai and transfer the same to the file of Sub Court, Omalur, Salem District.

For Petitioner : Mr.N.Karthikeyan

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.405 of 2018 pending on the file of II Additional Family Court, Chennai and transfer the same to the file of Sub Court, Omalur, Salem District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.11.2012 as per Hindu rites and customs. In the wedlock, one girl child was born on 29.12.2013. Due to the torture by the respondent and his family members, the petitioner left the matrimonial home and filed M.C.No.7 of 2015, seeking maintenance against the respondent before the Judicial Magistrate, Omalur. The respondent filed H.M.O.P.No.405 of 2018 before the II Additional Family Court, Chennai for restitution of conjugal rights.

3.According to the petitioner, she is residing at Salem along with aged parents and minor child. She is not having any independent income and depending on her parents for day-to-day

expenses, including the travelling expenses. Being a lady, it will be very difficult for her to travel from Salem to Chennai to attend each and every hearing along with the minor child. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.405 of 2018 pending on the file of II Additional Family Court, Chennai to the file of the Sub Court at Omalur, Salem District.

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.405 of 2018 is ordered to be withdrawn from the file of II Additional Family Court, Chennai and transferred to the file of Sub Court, Omalur, Salem District. The learned II Additional Judge, Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.405 of 2018 to the file of the Sub Court at Omalur, Salem 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(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Omalur, Salem District.

2.The II Additional Judge, Family Court, Chennai.

+1cc to Mr.N.Karthikeyan, Advocate, S.R.No.51124

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GSP(04/09/2018)