

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.492 of 2018
and C.M.P.No.12171 of 2018

Vijayalakshmi

... Petitioner

Vs.

Saravanan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.336 of 2018 pending on the file of Family Court, Coimbatore and transfer the same to the file of Principal Sub Court, Mayiladuthurai.

For Petitioner : Mr.S.Sounthar

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.336 of 2018 pending on the file of Family Court, Coimbatore and transfer the same to the file of Principal Sub Court, Mayiladuthurai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 02.02.2017 as per Hindu rites and customs. The respondent abandoned the petitioner and they are living separately. The petitioner filed H.M.O.P.No.117 of 2017 against the respondent on the file of the Principal Sub Court, Mayiladuthurai for restitution of conjugal rights. The respondent filed H.M.O.P.No.336 of 2018 on the file of the Family Court, Coimbatore for divorce on the ground of cruelty.

3.According to the petitioner, she is residing in Mayiladuthurai along with her aged parents. Her father is a senior citizen having geriatric problems. The distance between Mayiladuthurai and Coimbatore is more than 350 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 without

any assistance. Also the Family Court proceedings require presence of parties for each and every hearing. On the other hand, if H.M.O.P.No.336 of 2018 is transferred to Sub Court at Mayiladuthurai, the respondent can appear through counsel and conduct the case. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.336 of 2018 pending on the file of Family Court, Coimbatore to the file of the Principal Sub Court at Mayiladuthurai.

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.336 of 2018 is ordered to be withdrawn from the file of Family Court, Coimbatore and transferred to the file of Principal Sub Court, Mayiladuthurai. The learned Judge, Family Court, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.336 of 2018 to the file of the Principal Sub Court at Mayiladuthurai, 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.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Principal Subordinate Judge, Mayiladuthurai.

2.The Judge, Family Court, Coimbatore.

+1cc to Mr.S.Sounthar, Advocate, S.R.No. 52030

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rrs 07/09/2018



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