

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.5 of 2018

and C.M.P.No.49 of 2018

G.Babitha

... Petitioner

Vs.

M.Satheesh

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.117 of 2017 pending on the file of Sub Court, Ambasamudram and transfer the same to the file of Family Court, Chennai.

For Petitioner : Mr.V.Sukumar

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.117 of 2017 pending on the file of Sub Court, Ambasamudram and transfer the same to the file of Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 10.09.2010 as per Hindu rites and customs. In the wedlock, a male child was born on 14.12.2011. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the respondent filed H.M.O.P.No.117 of 2017 on the file of Sub Court, Ambasamudram against the petitioner, for divorce on the ground of cruelty and desertion.

3.According to the petitioner, she is residing along with her minor child at Chennai and is working as a manning Executive at Synergy Maritime Recruitment Services (P) Ltd., Mettukuppam, Chennai - 97. The minor child is studying in U.K.G. at Euro Kids School at Thuraipakkam, Chennai. The distance between Chennai and Ambasamudram is more than 600 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings for each and every hearing at Ambasamudram along with minor child. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.117 of 2017 pending on the file of Sub Court, Ambasamudram, to the file of Family Court, Chennai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

5.Considering the above contention of the learned counsel for the petitioner and 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.117 of 2017 is ordered to be withdrawn from the file of Sub Court, Ambasamudram and transferred to the file of Family Court, Chennai. The learned Subordinate Judge, Ambasamudram, is directed to transmit all the records pertaining to H.M.O.P.No.117 of 2017 to the file of Family Court, Chennai, 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 VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Ambasamudram.

2.The Judge, Family Court, Chennai.

+1cc to Mr.V.Sukumar, Advocate, S.R.No.50607

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CP(CO)
GSP(27/08/2018)