

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.502 of 2018
and C.M.P.No.12353 of 2018

K.Manjula

... Petitioner

Vs.

V.Karthikeyan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.36 of 2018 pending on the file of the Subordinate Court, Thiruchengodu and transfer the same to the file of the Subordinate Court, Mettupalayam.

For Petitioner : Mr.S.Elango

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.36 of 2018 pending on the file of Subordinate Court, Tiruchengode and transfer the same to the file of Subordinate Court, Mettupalayam.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 22.11.2015 as per Hindu rites and customs. In the wedlock, a male child was born to them on 23.08.2016. After marriage, both the petitioner and respondent were living together in the matrimonial home at Namakkal along with the parents of the respondent. Due to torture given by the respondent and his family members, the petitioner filed D.V.A.No.12 of 2017, on the file of Judicial Magistrate Court, Mettupalayam. The respondent filed H.M.O.P.No.36 of 2018 on the file of Subordinate Court, Tiruchengodu, for divorce.

3.According to the petitioner, she is residing in her parents home at Mettupalayam, Coimbatore District along with her minor son. The distance between Mettupalayam and Tiruchengode is more than 128 kilometers and hence, it will be very difficult

for her to travel such a long distance to attend the Court proceedings at Tiruchengode. Further, she is not having any independent income for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.36 of 2018 pending on the file of the Subordinate Court, Tiruchengode, to the file of the Subordinate Court, Mettupalayam.

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.36 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Tiruchengode and transferred to the file of the Subordinate Court, Mettupalayam. The learned Subordinate Judge, Tiruchengode, is directed to transmit all the records pertaining to H.M.O.P.No.36 of 2018 to the file of the Subordinate Court, Mettupalayam, 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/-

सत्यमेव जयते
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Subordinate Judge,Mettupalayam
2.The Subordinate Judge, Thiruchengode.
+lcc to Mr.S.Elango, Advocate, S.R.No.51147

Tr.C.M.P. No.502 of 2018
and C.M.P.No.12353 of 2018

cs/31/08/18