

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.84 of 2018
and C.M.P.No.2386 of 2018

V.Kalaiselvi

... Petitioner

Vs.

M.Jayakumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.97 of 2017 pending on the file of Sub Court, Thuraiyur, Trichy District and transfer the same to the file of Family Court, Chennai.

For Petitioner : Mr.S.Ravi
For Respondent : Mr.R.Thiagarajan

O R D E R

This petition is filed to withdraw H.M.O.P.No.97 of 2017 pending on the file of Sub Court, Thuraiyur, Trichy District 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 05.12.2011 as per Hindu rites and customs. In the wedlock, a male child was born on 11.12.2012. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.97 of 2017 on the file of Sub Court, Thuraiyur, for divorce against the petitioner.

3.According to the petitioner, she is residing at Rajakilpakkam, Chennai, along with her minor son and working at EIT Services India Private Limited, Guindy, Chennai-600 032. The distance between Chennai and Thuraiyur is more than 310 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Thuraiyur. The respondent is also working and residing at Chennai. The respondent filed the said H.M.O.P. before the Court at Thuraiyur, only to harass the petitioner. If H.M.O.P. is transferred to Family Court, Chennai, it will be convenient for both the petitioner and respondent. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.97 of 2017 pending on the file of Sub Court, Thuraiyur, Trichy District, to the file of Family Court, Chennai.

4.The learned counsel for the respondent submitted that in Family Court, presence of spouse is mandatory for each and every hearing, whereas in Sub Court, presence of petitioner is not necessary for all the hearings and she can represent through her counsel and prayed for dismissal of the Transfer Petition.

5.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6.Considering the above contention of the learned counsel for the petitioner as well as the respondent 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.97 of 2017 is ordered to be withdrawn from the file of Sub Court, Thuraiyur and transferred to the file of Family Court, Chennai. The learned Subordinate Judge, Thuraiyur, Trichy District, is directed to transmit all the records pertaining to H.M.O.P.No.97 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/-
Deputy Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

- 1.The Subordinate Judge, Thuraiyur.
2.The Judge, Family Court, Chennai.

+1cc to Mr.S.Ravi, Advocate, S.R.No.46104
+1cc to Mr.R.Thiyagarajan, Advocate, S.R.No.46094

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CS (DR)
SMI/02.08.2018