

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.93 of 2018
and C.M.P.No.2707 of 2018

J.Nasira Banu

... Petitioner/Defendant

Vs.

M.Nazar Ali

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the plaint in O.S.No.180 of 2017 pending on the file of the District Munsif Court, Perundurai, Erode District and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.Manoj Sreevalsan

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw the plaint in O.S.No.180 of 2017 pending on the file of the District Munsif Court, Perundurai, Erode District and transfer the same to the file of the Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 16.10.2016 at Varthagar Sangam Ponvila Mandapam, Bodi as per Islamic Law. According to the petitioner, she is working in Cognizant Technology Solutions, Siruseri, Chennai and respondent was working in IBM, Hyderabad. At the time of marriage, the respondent agreed for setting up matrimonial home in Chennai as he is entitled to work away from office. Based on such agreement, the petitioner fixed home at Thaiyur, Kelambakkam, Kancheepuram District. The respondent after seeing the house arranged by the petitioner, consented to reside there and paid a sum of Rs.20,000/- as advance. The petitioner and respondent resided together in the said house only for about 40 days. During that time, the petitioner found out that the respondent has no intention to live at Chennai and he wanted the petitioner to live with his parents and look after them. The respondent left the matrimonial home during the month of December 2016 and did not return thereafter.

2(a).The petitioner wrote to the respondent to express his views about the matrimonial life. The respondent gave false complaint against the petitioner and her family members. The petitioner issued notice calling upon the respondent to tender unconditional apology and to pay a sum of Rs.25,00,000/- as damages. As a counter blast, the respondent filed O.S.No.180 of 2017 on the file of the District Munsif Court, Perundurai against the petitioner for mandatory injunction directing the petitioner to resume co-habitation with him.

3.According to the petitioner, the distance between Perundurai and Chennai is more than 450 Kms and it will be very difficult for the petitioner to travel such a long distance. The nature of the job of the respondent is that he can work away from the office. In the said circumstances, it will not be difficult for the respondent to attend the proceedings before the Family Court at Chennai if O.S.No.180 of 2017 is transferred to Family Court, Chennai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, there is no representation for him on 22.03.2018 and today also there is no representation for him.

5.It is not in dispute that the petitioner is working in Cognizant Technology Solutions, Chennai and staying in Chennai. In view of the above facts, the contention of the learned counsel for the petitioner that the petitioner will be put to difficulty as he has to travel to Perundurai to attend the hearings has considerable force.

6.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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The plaint in O.S.No.180 of 2017 is ordered to be withdrawn from the file of the District Munsif Court, Perundurai, Erode District and transferred to the file of the

Family Court, Chennai. The learned District Munsif, Perundurai is directed to transmit all the records pertaining to O.S.No.180 of 2017 to the file of the Judge, 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 IX)

//True Copy//

Sub Assistant Registrar

gsa
To

1.The District Munsif,
Perundurai, Erode District

2.The Judge,
Family Court, Chennai.

+1cc to Mr.Manoj Sreevalsan, Advocate Sr.34721

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srg 28/06/2018

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