

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.491 of 2018
and C.M.P.No.12165 of 2018

P.Muthammal

..Petitioner

Vs

P.Manivannan

..Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.99 of 2018 pending on the file of the Sub Court, Kallakurichi, Villupuram District and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.B.Sundar

For Respondent : Mr.V.Gunasekar
for Mr.V.R.Kamalanathan

O R D E R

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No.99 of 2018 pending on the file of the Sub Court, Kallakurichi, Villupuram 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 solemnized on 09.11.2016 at A.K.T.Marriage Hall, Salem Main Road, Elavansoorakottai, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were lived together at Kallakurichi. After two years from the date of marriage, difference of opinion arose between the petitioner and respondent, thereby the petitioner left the matrimonial home and as of now, she is residing in Door No.34, Rajaji 3rd Street, Nungambakkam, Chennai. In the meantime, the respondent has filed a petition before the Sub Court, Kallakurichi, Villupuram District, against the petitioner, for annulling the marriage

happened between them on 09.11.2016.

3. According to the petitioner, she is studying in Chennai and she is residing with her sister's home. The distance between Chennai and Kallakurichi is about 200 kms and being a lady, it is very difficult for her to attend the Court proceedings at Kallakurichi. Further, she is not having any independent income and she is depending on her parents for her day-to-day expenses and travelling expenses. In the said circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition for the relief stated earlier in the first paragraph of this order.

4. The learned counsel for the respondent submitted that the parents of the petitioner are residing in Parinthal Village at Uthangarai near to Kallakurichi. In the marriage invitation, the above said address alone printed as the address of the petitioner. Now after suppressing the said fact, the petitioner has approached this Court by saying false address. He would further submit that it will not be difficult for the petitioner to attend the Court at Kallakurichi and prayed for dismissal of the transfer petition.

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

6. Considering the submissions made by either side, it is true the marriage invitation which was enclosed as document No.1 in the typed set of papers filed by the petitioner shows that the parents of the petitioner are residing in the address now mentioned by the respondent. However, in the additional typed set of papers filed by the petitioner, the Aadhaar Card issued in favour of the petitioner has also produced, in the Aadhaar Card the address of the petitioner was mentioned as No.34, Rajaji 3rd Street, Nungambakkam, Chennai. In otherwise, we cannot come to the conclusion that the Aadhaar card now produced by the petitioner is a bogus one. Furthermore, on going through the document no.5 enclosed in the typed set of papers filed by the petitioner already customary divorce was completed between the petitioner and respondent, for which, both of them approached the police and executed the said deed.

7. In the said circumstances, it is relevant to see the pronouncement of the Hon'ble Supreme Court in the judgments in Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta reported in 2008 (9) SCC 353 and in Sumita Singh Vs. Kumar Sanjay and another reported in AIR 2002 SC 396, wherein the Hon'ble Apex Court has held that the convenience of the wife must be given preference in the matrimonial proceedings. In this

case also, the petitioner categorically proves that she is residing in Nungambakkam at Chennai. In order to deny the same, no relevant documents were produced by the respondent for disbelieving the particulars available in the said documents. So this court came to the conclusion that as of now the petitioner is residing in Nungambakkam at Chennai. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.99 of 2018 is ordered to be withdrawn from the file of the Sub Court, Kallakurichi, Villupuram District and transferred to the file of the Sub Court, Tambaram, Kancheepuram District. The learned Subordinate Judge, Kallakurichi, Villupuram District is directed to transmit all the records pertaining to H.M.O.P.No.99 of 2018 to the file of the Sub Court, Tambaram, Kancheepuram District, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Subordinate Judge, Tambaram, Kancheepuram District, is directed to dispose of the case as expeditiously as possible not later than 30.06.2018. No costs. Consequently, connected Miscellaneous Petition is closed.

sri

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Kallakurichi, Villupuram District.

2.The Subordinate Judge,
Tambaram, Kancheepuram District.

+2cc to Mr.B.Sundar, Advocate, S.R.No.88164

+1cc to Mr.V.R.Kamalanathan, Advocate, S.R.No.88575

Tr.C.M.P.No.491 of 2018
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RR(CO)
KAK(30/01/2019)