

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 03.12.2018

JUDGMENT PRONOUNCED ON : 10.12.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.215 of 2017
and C.M.P.No.3906 of 2017

R.Sivasakthi ..Petitioner

versus

R.Muthukumar ..Respondent

Prayer:

Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.166 of 2016 pending on the file of the Sub Court, Kancheepuram and transfer the same to the file of the Sub Court, Gingee.

For Petitioner : M/s.Jayalakshmi
for M/s.Paul and Paul

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.166 of 2016 pending on the file of the Sub Court, Kancheepuram and transfer the same to the file of the Sub Court, Gingee.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 23.02.2015 at Tirumala Tirupathi Devasthanams, Tirupathi, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were living in the matrimonial home at Kovur Village, Kancheepuram District. After some days from the date of marriage, the petitioner came to know that the respondent is not even qualified 10th standard, consequent of the said reason, the difference of opinion arose

between the petitioner and respondent and hence, the petitioner returned to India and living with her parents at Padipallam in Gingee. In the meantime, the respondent filed a petition before the Sub Court, Kancheepuram, against the petitioner, for annulling the marriage. The said petition is now pending before the Sub Court, Kancheepuram as H.M.O.P.No.166 of 2016. In the said petition, the respondent made various allegations against the petitioner.

3. According to the petitioner, she is residing at Gingee along with her parents. The distance between her residence and Kancheepuram is more than 100 kms and being a lady, it is very difficult for her to go to Kancheepuram to attend the Court proceedings. 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. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. 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.

6. This petition has been filed by the petitioner by stating the inconvenience faced by her in attending the Court at Kancheepuram.

7. For considering the above contention raised by the learned counsel appearing for the petitioner, 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. 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.166 of 2016 is ordered to be withdrawn from the file of the Sub Court, Kancheepuram and transferred to the file of the Sub Court, Gingee. The Subordinate Judge, Kancheepuram, is directed to transmit all the records pertaining to H.M.O.P.No.166 of 2016 to the file of the Sub Court, Gingee, 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, Gingee, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Subordinate Judge, Kancheepuram.

2.The Subordinate Judge, Gingee.

+1cc to M/s.Paul and Paul, Advocate, S.R.No.85581

Tr.C.M.P.No.215 of 2017

MP (Co)
CS/08/01/2019