

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.12.2018

Coram

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

Tr. C.M.P. No.326 of 2017
and
CMP.No.6202 of 2017

VNK. Beena

Petitioner

Vs.

Vijay Venkatesh @ M. Sasikumar

Respondent

Prayer: The Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw H.M.O.P.No.328 of 2016 pending on the file of Principal Subordinate Court, Tiruppur and to transfer the same to Principal Subordinate Court, Cuddalore.

For Petitioner : Mr. P. Dinesh

For Respondent : No appearance

O R D E R

The Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw H.M.O.P.No.328 of 2016 pending on the file of Principal Subordinate Court, Tiruppur and to transfer the same to Principal Subordinate Court, Cuddalore.

2. The petitioner is the wife and the respondent is the husband. On 29.05.2015, the marriage between the petitioner and the respondent was solemnized in Madurai, according to the Hindu Rites and Customs. After the marriage, both the petitioner and the respondent were set up a matrimonial home in Tiruppur and residing for a considerable period. After some time from the date of marriage, due to the difference of opinion arose between the petitioner and the respondent, the petitioner left the matrimonial home and joined with her parents in Cuddalore.

3. In the meanwhile, the respondent filed an application under Section 13 (1) (1A) of Hindu Marriage Act, in which he is seeking the relief for annulling the marriage performed on 29.05.2015. As of now, the said case was pending before the Subordinate Court, Tiruppur. Subsequent to the filing of the said application, the petitioner herein filed an application under Section 125 of Cr.P.C against the respondent praying to direct the respondent to pay the maintenance. As of now, the said application is pending before the Chief Judicial Magistrate Court, Cuddalore in MC No.10 of 2017. In both the applications, both the parties are levelled various allegations against each other. However, those allegations have to be dealt only at the time of trial before the respective Courts.

4. According to the petitioner, the distance between Cuddalore and Tiruppur is nearly 300 kms. The petitioner, being a lady, it is very difficult for her to go to Tiruppur to attend the Court Proceedings. Further, she is not having any independent income and she is depending upon her parents for her day to day expenses and travelling expenses.

5. In the said circumstances, the petitioner approached this Court by filing this Transfer Civil Miscellaneous Petition, for the relief stated in the 1st paragraph of this Order.

6. In respect to the respondent, after serving notice, he has not appeared before this court either personally or through an Advocate. Even after giving sufficient opportunity, he has not turned up before this Court. Hence, we have to decide this application as per the other circumstances.

7. Now, considering the contention raised by the learned Counsel appearing for the petitioner as well as the respondent and the Judgment of our Honourable Apex Court, reported 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. In the said Judgment, it was held that the convenience of the wife must be taken into account for deciding these type of applications.

8. Accordingly, the Transfer civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.328 of 2016 is ordered to be withdrawn from the file of Principal Subordinate Court, Tiruppur and ordered to be transferred to the file of Principal Subordinate Court, Cuddalore within a period of two

weeks from the date of receipt of a copy of this order. The Principal Subordinate Judge, Tiruppur is directed to transmit the case records pertaining to H.M.O.P.No.328 of 2016 to Principal Subordinate Judge, Cuddalore. On receipt of such records, the Subordinate Judge, Cuddalore is directed to dispose the cases as expeditiously as possible. The connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Subordinate Court, Tiruppur
2. The Subordinate Court, Cuddalore

+1cc to Mr.D.Ravichander, Advocate, S.R.No.85334

Tr. C.M.P. No.326 of 2017.

VSNII(CO)
SSM(07/01/2019)