

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 08.11.2018

JUDGMENT PRONOUNCED ON : 19.11.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.743 of 2017
and C.M.P.No.15173 of 2017

Preethi Padmanabhan

..Petitioner

versus

M.K.Prakash Chand

..Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.151 of 2016 pending on the file of the Family Court, Chengalpet and transfer the same to the file of the Sub Court, Tambaram.

For Petitioner : Mr.J.R.K.Bhavanantham

For Respondent : Mr.M.Dharani Dharan

O R D E R

This petition has been filed to withdraw F.C.O.P.No.151 of 2016 pending on the file of the Family Court, Chengalpet and transfer the same to the file of the Sub Court, Tambaram.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 12.03.2012 at Rani Meyyammai Hall, Egmore, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were living in a flat at Tambaram. Due to difference of opinion, the petitioner left the matrimonial home and living with her parents at Mylapore in Chennai. Subsequent to that, the respondent filed F.C.O.P.No.151 of 2016 on the file of the Family Court, Chengalpet, against the petitioner, in which, he seeking the relief of restitution of conjugal rights, in the said petition, he made various allegations against the petitioner.

3. According to the petitioner, she is residing at Tambaram and attending her regular employment. Her father is also residing in the same house. The distance between Tambaram and Chengalpet is more than 35 kilometers and being a lady, it is very difficult for her to go to Chengalpet to attend the Court proceedings. Further, she is depending on her parents for her day-to-day needs. Unless the petition filed by the respondent is transferred to the Sub Court, Tambaram, the petitioner suffers huge expenses and loses the employment.

4. The learned counsel for the respondent submitted that it will not be difficult for the petitioner to attend the Court at Chengalpet and prayed for dismissal of the transfer petition. In respect to the factual aspects mentioned by the petitioner, the respondent did not dispute the same specifically.

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

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

7. 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 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, 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 F.C.O.P.No.151 of 2016 is ordered to be withdrawn from the file of the Family Court, Chengalpet and transferred to the file of the Sub Court, Tambaram. The Presiding Officer, Family Court, Chengalpet, is directed to transmit all the records pertaining to F.C.O.P.No.151 of 2016 to the file of the Sub Court, Tambaram, 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, is directed to dispose of the case as expeditiously as possible in any event not later than

20.02.2019. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

sri
To

1.The Subordinate Judge, Chengalpet.

2.The Subordinate Judge, Tambaram.

+1 cc to Mr. J.R.K. Bhavanantham, Advocate SR.78692

Tr.C.M.P.No.743 of 2017

SPD(CO)
EU(05/12/2018)