

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.768 of 2018
and C.M.P.No.18918 of 2018

Anbarasi

.. Petitioner

versus

Venkatesan

.. Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.60 of 2017 pending on the file of the Sub Court, Attur, Salem District and transfer the same to the file of the Sub Court, Neyveli, Cuddalore District.

For Petitioner : Mr.A.Revathi

For Respondent : Mr.G.Anabaya Chozhan

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.60 of 2017 pending on the file of the Sub Court, Attur, Salem District and transfer the same to the file of the Sub Court, Neyveli, Cuddalore District.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 29.05.2013 at Amaravathi Thirumana Mandapam, Neyveli, as per Hindu rites and customs. During the time of marriage, the respondent was working as Quality Engineer in Exeter Pre Media Pvt. Ltd. at Chennai, and the petitioner was working as Assistant Executive in Shriram Transport Finance Co. Ltd., at Vridhachalam. So, immediately after the marriage, the petitioner got transferred from Vridhachalam to Chennai as desired by the respondent. Thereafter, both of them lived together in Chennai. But after some time, due to difference of

opinion arose between the petitioner and respondent, the petitioner left the matrimonial home and residing along with her parents at Neyveli.

3. In the said circumstances, the respondent has filed a petition under Section 9 of the Hindu Marriage Act before the Sub Court, Attur, and for the reason best known to the respondent, he voluntarily withdrawn the same. But after some time, he again filed one another petition before the same Court in H.M.O.P.No.60 of 2017, in which, he seeks the relief of divorce. Now the said case is pending with the file of Sub Court, Attur. In the meantime, 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. According to the petitioner, she is residing at Neyveli along with her parents. The distance between her residence and Attur is about 150 kms, being a lady, it is very difficult for her to attend the Court proceedings at Attur. Further, she is not having any independent income and she is depending on her parents for her day-to-day needs and travelling expenses.

5. Per contra, the learned counsel appearing for the respondent by filing counter would contend that the petitioner and her relatives have brutally attacked the respondent and detained in the house. Due to the said attack, the respondent got multiple fractures and as of now, he is not in a position to move Neyveli, without others help. He would further submit that it will not be difficult for the petitioner to attend the Court at Attur and prayed for dismissal of the transfer petition.

6. 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.

7. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by our Honourable Apex 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. In this case also, the petitioner categorically proves that she is residing at Neyveli. Apart from that, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account for considering the issue involved in these type of petitions.

8. However, in this petition, the allegations levelled by the respondent is very crucial in nature, the circumstances shows if the case is withdrawn from the file of the Sub Court, Attur and transferred to the Sub Court, Neyveli, there may be a chance for further complications between the petitioner and respondent. So, this Court decided that the Principal Sub Court, Villupuram is the appropriate place, and also it is very convenient for both the petitioner and respondent in participating the Court proceedings.

9. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.60 of 2017 is ordered to be withdrawn from the file of the Sub Court, Attur, Salem District and transferred to the file of the Principal Sub Court, Villupuram. The learned Subordinate Judge, Attur, Salem District is directed to transmit all the records pertaining to H.M.O.P.No.60 of 2017 to the file of the Principal Sub Court, Villupuram, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Principal Subordinate Judge, Villupuram, 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,
Attur, Salem District.

2.The Principal Subordinate Judge,
Villupuram.

+1 cc to Mr.R.Karunakaran, Advocate Sr.No.89047

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RGN(CO)
CSL/26.02.2019

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