

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.706 of 2018 &
CMP No.17517 of 2018

Mrs. V. Sabitha

Petitioner / Respondent

VS

Mr. A. Velmurugan

Respondent / Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure with a prayer to withdraw the case in H.M.O.P.No.181 of 2018 from the file of the Subordinate Court, Theni and to transfer the same to the file of V Additional Family Court, Chennai.

For Petitioner : Mr.J. Shanmugasundara Babu for
Mr. R. Sreekanth

For Respondent : No appearance

O R D E R

The Petitioner V. Sabitha is the wife of the respondent A. Velmurugan.

2) On 01.06.2014, the petitioner was given in marriage with the respondent and thereafter, they set up a separate matrimonial home at No.77/20, West Jones Road, West Saidapet, Saidapet, Chennai -15. Subsequent to that, due to the misunderstanding happened between the petitioner and the respondent, the petitioner left the matrimonial home on 23.10.2017.

3) Now, in the said circumstances, the petitioner has filed this transfer civil miscellaneous petition seeking transfer of the case in HMOP No.181 of 2018 on the file of Subordinate Court, Theni and to transfer the same to the file of V Additional Family Court, Chennai. Since, the petitioner left the matrimonial home, the respondent has filed the application under Section 9 of Hindu Marriage Act seeking relief of the restitution of conjugal rights against the petitioner and the

same was pending at Subordinate Court, Theni in H.M.O.P.No.181 of 2018.

4) Subsequent filing of the said petition, the petitioner has filed the application against the respondent under Section 125 of Cr.P.C before the Principal Family Court, Chennai. As of now, both the applications are pending for disposal.

5) In the said circumstances, in respect to the prayer sought for by the petitioner, it is necessary to look into the decision 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. Now according to the petitioner, she was residing in West Saidapet, Saidapet, Chennai -15. Therefore, allowing the application filed by the petitioner is extending convenient circumstances to the petitioner for proceeding both the cases.

6) Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The case in H.M.O.P.No.181 of 2018 is ordered to be withdrawn from the file of Subordinate Court, Theni and to be transferred to V Additional Family Court, Chennai for simultaneous disposal along with the case in MC No.316 of 2018 on the file of V Additional Family Court, Chennai. The learned Subordinate Judge, Theni is directed to send the case records of HMOP No.181 of 2018 to V Additional Family Court, Chennai within a period of two weeks from the date of receipt of copy of this order. On receipt of records, the learned V Additional Judge, Family Court, Chennai is directed to conduct the trial along with the case in MC No.316 of 2018 and dispose the cases as expeditiously as possible.

7) In the result, the Transfer Civil Miscellaneous Petition is allowed. The connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Subordinate Judge, Theni

2. The V Additional Family Court, Chennai.

+1 cc to Mr.R.Sreekanth, Advocate Sr.No.79411

Transfer CMP No.706 of 2018

CSL/13.12.2018



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