

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.705 of 2018
and C.M.P.No. 17458 of 2018

Shahana Taj Begam

Petitioner

Vs

Nizamudeen Sherif

Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 (1) (b) (ii) of Code of the Civil Procedure to withdraw the suit in O.S.No.73 of 2018 pending on the file of District Munsif, Ambur and to transfer the same to any of the Family Court in Chennai.

For Petitioner : Mr.M.Hussaini Basha

For Respondent : Mr. T.N.Rangesh Kanna

O R D E R

This petition is filed to withdraw the suit in O.S.No.73 of 2018, pending on the file of the District Munsif Court, Ambur and to transfer the same to any one of the Family Court in Chennai.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 01.05.2016 at Yeses Royal Mahal (Key-em) 100 Feet Road, Anna Nagar, West Extension, Chennai. After the marriage, due to the difference of opinion between the petitioner and the respondent, the petitioner left the matrimonial home. Subsequently, the respondent had filed a suit against the petitioner before the learned District Munsif Court, Ambur, in O.S.No.73 of 2018, in which, he seeks the relief of divorce. Now, the suit is pending before the learned District Munsif Court, Ambur.

3. As of now, the petitioner is residing with her parents in Chennai. The said fact was not disputed on the side of the respondent. It is true that the petitioner, being a lady would find very difficult to attend the Court situated at Ambur.

In the said circumstances, it is necessary to refer the Judgment of the Honourable Apex Court reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. In the said Judgments our Honourable Apex Court has held that, for deciding these type of applications, the convenience of the wife has to be taken into account. Following the said principle, since the petitioner is residing within the jurisdiction of the Family Court, Chennai, this Court is also inclined to allow this application.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The suit in O.S.No.73 of 2018 pending on the file of District Munsif Court, Ambur, is ordered to be withdrawn from the file of the learned District Munsif Court, Ambur, and transfer the same to the file of the Family Court, Chennai. The learned District Munsif Court, Ambur is directed to transmit all the records pertaining to O.S.No.73 of 2018 to the file of the Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Judge, Principal Family Court, Chennai, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

sbn

To

1. The District Munsif Court, Ambur

2. The Family Court, Chennai.

+1 CC to Mr.M.Hussaini Basha, Advocate, SR No.81198

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