

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.12.2018

Coram :

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

Tr. C.M.P. No.698 of 2018
and
CMP.No.17454 of 2018

J. Renuka ...Petitioner /Respondent

Vs.

Yugaselvan ...Respondent /Petitioner

Prayer: The Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw H.M.O.P.No.307 of 2017 pending on the file of Subordinate Court, Kanchipuram and to transfer the same to Subordinate Court, Mayiladuthurai.

For Petitioner : Mr. V. Vinothkumar

For Respondent : Mr. S. Sounthar

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.307 of 2017 pending on the file of Subordinate Court, Kanchipuram and to transfer the same to Subordinate Court, Mayiladuthurai.

2. The petitioner is the wife and the respondent is her husband. The marriage between the petitioner and the respondent was solemnized on 02.02.2014 at Perumal Temple, No.27th Taluk, Neyveli, Cudalore District, as per Hindu Rites and Customs. After the marriage, both the petitioner and the respondent were lived together in Kuduvaancherry. After some time from the date of marriage, due to the difference of opinion, the petitioner left the matrimonial home and joined with her parents at Sirkali.

3. In the meantime, the respondent filed an application under Section 13(1) (ia) & (ib) of the Hindu Marriage Act, 1955 against the petitioner for the relief of annulling the marriage happened between them. The said application filed by the respondent is now pending with Subordinate Judge, Kancheepuram in H.M.O.P No.307 of 2018.

4. According to the petitioner, the distance between Kancheepuram and Sirkali is about 250 kms. The petitioner being an unemployed lady, it is very difficult for her to attend the Court proceedings at Kancheepuram. Further, she is not having any sufficient means to meet out the travelling expenses.

5. Per contra, the learned Counsel appearing for the respondent would contend that after the marriage, the petitioner alone has created lot of problems and picked up quarrel with the respondent frequently. Further, the petitioner regularly lodged various complaints against the respondent before All Women Police Station, Chengalpat, Deputy Superintendent of Police, Guduvancherry and District Social Welfare Officer. According to him, this application filed by the petitioner is only for the purpose of harassing the respondent.

6. Heard Mr. V. Vinothkumar, the learned Counsel for the petitioner and Mr. S. Sounthar, the learned Counsel for the respondent.

7. Initially, on going through the affidavit filed by the petitioner and as well as the counter affidavit filed by the respondent, the petitioner and the respondent have raised so many allegations against each other. Since, those allegations are related to their matrimonial life, the same have to be dealt only before the trial Court and not before this Court. In otherwise, we have to see whether sufficient cause was projected by the petitioner for transferring H.M.O.P.No.307 of 2017 from Subordinate Court, Kanchipuram to the file of Subordinate Court, Sirkali.

8. The only contention raised by the petitioner is since the distance between Kanchipuram and Sirkali is about 220 kms, being a lady, it is very difficult for the petitioner to attend the Court proceedings in Kancheepuram. Further, she is not having sufficient income to meet out the travelling expenses. On considering the said submission, it is true that the distance between Kanchipuram and Sirkali is nearly 220 kms, further on the side of the respondent, they have not stated anything about the income of the petitioner. It shows that, the petitioner is leading her life only by the support of her parents.

9. In the said circumstances, it is relevant 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. In this case, applying the said principle, it is true, being a lady, it is very difficult for the petitioner to go to Kancheepuram for attending the Court proceedings. Further, as of now, she is depending upon her parents for her day to day needs. So, this Court is of the considered view that allowing the application is the appropriate remedy for either side.

10. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.307 of 2017 is ordered to be withdrawn from the file of Subordinate Court, Kanchipuram and ordered to be transferred to the file of Subordinate Court, Mayiladuthurai. The Subordinate Court, Kanchipuram is directed to transmit the case records pertaining to H.M.O.P.No.307 of 2017, to Subordinate Court, Mayiladuthurai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the Subordinate Judge, Mayiladuthurai is directed to dispose the case as expeditiously as possible. The connected miscellaneous petition is closed. No costs.

vrn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Court,
Kanchipuram

2. The Subordinate Court,
Mayiladuthurai

+1cc to Mr.S.Sounthar, Advocate, S.R.No.87543

+1cc to Mr.V.Vinoth Kumar, Advocate, S.R.No.88275

Tr. C.M.P. No.698 of 2018
and
CMP.No.17454 of 2018

rv(CO)
kak(24/01/2019)