

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.722 of 2018 and

CMP NO. 17721 of 2018

Geethamani

Petitioner / Respondent

Vs

Boopeshkumar

Respondent / Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw the case in H.M.O.P.No.96 of 2018 from the file of the Subordinate Court, Harur and to transfer the same to the file of Subordinate Court, Bhavani, Erode.

For Petitioner : Mr.A.v. Arun

For Respondent : No appearance

O R D E R

The Petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 31.08.2017 at Magaleeswaran Temple, Perunthalaiyur, Kavundapadi, Bhavani Taluk, Erode District as per the Hindu Rites and customs. Due to the wedlock, the petitioner gave birth to one male child on 19.06.2018. Since the respondent is working in Indian Army as a Soldier, immediately, after the marriage, both of them were residing in the work place of respondent. While, the respondent leaving his place of posting, he sent the petitioner to her parents home for taking due care, as she was pregnant at that time. Later, due to the misunderstanding, the respondent filed a police complaint before All Women Police Station, Harur, resultantly, he filed a petition before the Subordinate Court at Harur, seeking relief of restitution of conjugal rights. As of now, the said petition was pending with the Subordinate Court, Harur in HMOP No.96 of 2018.

2. At present, after giving birth to a male child, the petitioner was residing with her parents in Kavundapadi in Erode District. According to the petitioner, the distance between the respondent and Harur is more than 100 kms and being a lady, it is very difficult for her to go to Harur for attending the Court proceedings. Further, she is not having an independent income and she is depending upon her parents for her day to day expenses and travelling expenses. Unless, the the case in H.M.O.P.No.96 of 2018 now pending on the file of the Subordinate Court, Harur is transferred to Subordinate Court, Bhavani,

Erode, she may be suffered like anything.

3. Today, when the petition is taken up for consideration, there is no representation from the respondent. On 27.11.2018, after sending notice to the respondent, even after printing his name in the cause list, the respondent was not present before this Court. Hence, this Court directed the Registry to post the matter under the caption of "Orders". Today (29.11.2018) also, there is no representation on the side of the respondent.

4) Considering the above circumstances and observing the principles of our Honourable Apex Court, it was held that 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 taken into account.

5) Accordingly, the Transfer civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.96 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Harur and to be transferred to the file of Subordinate Court, Bhavani, Erode, 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, Bhavani, Erode is directed to dispose the case as expeditiously as possible. The connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Sub Judge,
Subordinate Court, Harur
2. The Sub Judge,
Subordinate Court, Bhavani, Erode

+1cc to Mr.A.v. Arun, Advocate sr.no.82033

Transfer CMP No.722 of 2018

nr 21/12/2018