

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.710 of 2018

and C.M.P.No. 17561 of 2018

Mrs.P.Gowripriya

...Petitioner

Vs

Mr.G.Rajakumaran

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of the Civil Procedure to withdraw the case in H.M.O.P.No.89 of 2018, pending on the file of the learned Subordinate Judge, Tiruvannamalai and to transfer the same to the Subordinate Court, at Tambaram.

For Petitioner : Mr.R.Rajesh Vivekananthan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the case in H.M.O.P.No.89 of 2018, pending on the file of the learned Subordinate Judge, Tiruvannamalai and to transfer the same to the Subordinate Court at Tambaram.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 20.08.2008, as per the Hindu Rites and Customs. After the marriage, both the petitioner and the respondent were living in a matrimonial home, for a period of 2 years. Since, the respondent has been ill-treated the petitioner, difference of opinion arose between them. Therefore, the petitioner left the matrimonial home and joined with her parents.

3. At the same time, the respondent filed an application under Section 13(1) (1.a & 1.b) of the Hindu Marriage Act, before the learned Subordinate Judge, Tiruvannamalai, seeking the relief of dissolution of marriage. In the mean time, as already stated that the petitioner left the matrimonial home and living with her parents within the jurisdiction of the Subordinate Court, Poonamallee. According, to the petitioner the distance between her residence and Tambaram is more than 200 kilo meters and being the lady, it is very difficult for her to go to Tambaram and attend the Court proceedings. The petitioner is depending upon her parents for the day to day expenses and travelling expenses.

4. In the said circumstances, since this application is filed by the wife, it is necessary to refer to 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 above Judgments our Honourable Apex Court has held that, the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of the residence of wife must be taken into account.

5. In this case, according to the petitioner, the petitioner was residing in Hasthinapuram, Chennai within the jurisdiction of Subordinate Court, Tambaram. The petitioner has prayed to transfer the case H.M.O.P.No.89 of 2018, to the Court of the learned Subordinate Judge, Tambaram. Accordingly, for the reason stated above the petition was filed.

6. In the light of the above discussion, the Transfer Civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.89 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Tiruvannamalai and to transfer the same to the file of the Subordinate Court at Tambaram. The learned Subordinate Judge, Tiruvannamalai is directed to transmit all the records pertaining to H.M.O.P.No.89 of 2018 to the file of the Subordinate Court, Tambaram, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Subordinate Judge, Tambaram is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Subordinate Court,
Tiruvannamalai,

2.The Subordinate Court, Tambaram,

Transfer CMP. No.710 of 2018
and C.M.P.No. 17561 of 2018

+1cc to Mr.R.Rajesh Vivekananthan, Advocate, S.R.No.81670

SPD(CO)
rrs 20/12/2018