

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 03.12.2018

JUDGMENT PRONOUNCED ON : 19.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.779 of 2018
and C.M.P.No.19271 of 2018

M.Priyanga ... Petitioner

Vs

K.Deepakdurai ...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of the Civil Procedure to withdraw I.A.No.67 of 2018, pending on the file of the Subordinate Court, Sathyamangalam and to transfer the same to the file of the Subordinate Court, Pollachi.

For Petitioner : Mr.C.Veera Ragavan

For Respondent : Mr.K.Prasath for
Mr.N.Chinnaraj

O R D E R

This petition is filed to withdraw I.A.No.67 of 2018 pending on the file of the learned Subordinate Judge, Sathyamangalam and to transfer the same to the file of the Subordinate Court, Pollachi.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 14.03.2018, as per the Hindu Rites and Customs. After the marriage, both the petitioner and the respondent were living in a Matrimonial home at Sathyamangalam. Since, the respondent ill-treated the petitioner, she left the matrimonial home and settled in Pollachi along with her parents. In the mean while, the respondent filed an application before the Subordinate Court, Sathyamangalam in I.A.No.67 of 2018 for seeking the relief to condone the period stipulated in the Hindu Marriage Act, for filing an application to the relief of dissolution of Marriage. As of now, the said application has

been numbered and pending with the Subordinate Court, Sathyamangalam in I.A.No.67 of 2018. In the said application, the respondent making various allegations against the petitioner.

3. According to the petitioner, the distance between her residence and Sathyamangalam is more than 150 kilo meters, and being a lady it is very difficult for her to go to Sathyamangalam to attend the Court proceedings. Further, she is not having any independent income and she is depending upon her parents for her day to day expenses and travelling expenses. Accordingly, unless the I.A.No.67 of 2018 is transferred to the Subordinate Court, Pollachi, she will be prejudiced.

4. In the counter, the respondent denied the entire allegations levelled by the petitioner. According to him, the petitioner is voluntarily left the matrimonial home and joined with her parents.

5. Heard, the learned counsel Mr.C.V.Veera Ragavan appearing for the petitioner and the learned counsel Mr.K.Prasath for Mr.N.Chinnaraj appearing for the respondent.

6. Admittedly, the distance between the Pollachi and the Sathyamangalam is nearly 150 Kilo Meters. Being a lady it is very difficult for her to attend the Court proceedings in Sathyamangalam. Further, she is not having any independent income and she is depending upon her parents for her day to day expenses and travelling expenses. Hence, the petitioner had approached this Court for the relief as stated above.

7. In the said circumstances, since the application is filed by the wife, it is necessary to look into the judgment of our 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 in which the wife was residing has to be taken into account for deciding the issue raised in these type of application. Now, on applying the principle laid down by our Honourable Apex Court in this case after leaving the matrimonial home, now the petitioner was residing in Pollachi along with her parents. Hence, preference must be given to the case of petitioner and accordingly this petition is allowed.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The case in I.A.No.67 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Sathyamangalam

and ordered to transfer the same to the file of the Subordinate Court, Pollachi. The learned Subordinate Judge, Sathyamangalam is directed to transmit all the records pertaining to I.A.No.67 of 2018 to the file of the Subordinate Court, Pollachi, 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, Pollachi is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Court,
Sathyamangalam.
2. The Subordinate Court,
Pollachi.

+1cc to Mr.C.Veeraraghavan, Advocate Sr.88219

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