

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.BHAVANI SUBBAROYAN, J.

TR.C.M.P.No.402 of 2019

& CMP.No.10883 of 2019

Soundarya ... Petitioner/Respondent

Vs.

Rakesh ... Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 CPC to withdraw F.C.OP.No.572 of 2018 pending on the file of Family Court, Salem and transfer the same to the file of Sub Court, Pollachi to be tried alongwith HMOP No.106 of 2018.

For petitioner : :Mr.L.Mouli

For respondent : Mr.C.Prabakaran

ORDER

This petition has been filed by the petitioner seeking the relief to withdraw F.C.OP.No.572 of 2018 pending on the file of Family Court, Salem and transfer the same to the file of Sub Court, Pollachi to be tried alongwith HMOP No.106 of 2018.

2. The petitioner herein is the respondent in FCOP No.572 of 2018, pending on the file of learned Judge, Family Court, Salem. Now, she has filed this petition to withdraw the above proceedings from the file of the learned Judge, Family Court, Salem and to transfer the same to the file of Sub Court, Pollachi.

3. The petitioner is the wife and the respondent is her husband. The marriage between the petitioner and respondent was solemnized on 27.10.2017 at Kantha Mahal Thirumana Mandapam in Kovai Road, Pollachi as per Hindu rites and customs. Subsequent to marriage, a difference of opinion arose between the petitioner and the respondent, the petitioner left the matrimonial home and living separately alongwith her parents at Pollachi.

4. In the meanwhile, the respondent has filed a petition against the petitioner, under Section 13(1)(ia) of the Hindu Marriage Act 25/1955, seeking the relief of annulling the marriage happened between them on 27.10.2017. The said petition is now pending on the file of the learned Judge, Family Court, Salem in FCOP No.572 of 2018. In the said circumstances, the petitioner approached this Court by way of filing the present petition to transfer the said proceedings pending on the file of the learned Judge, Family Court, Salem to the file of Sub Court, Pollachi.

5. According to the petitioner, the distance between Salem and Pollachi is about 170 kilometers, being a lady, it is very difficult to her in attending the Court proceedings pending on the file of the learned Judge, Family Court, Salem. Considering the fact that the petitioner is having aged parents and also the distance between Salem and Pollachi is about 170 kms., it is appropriate for this Court to transfer the said proceedings from the file of learned Judge, Family Court, Salem to some other Court.

6. Today, during the course of arguments, the learned counsel appearing for the respondent seeks this Court to transfer the proceedings to Trichy since it will be convenient for the respondent. Apart from this, before ordering the petition in favour of the petitioner, this Court has gone through the observation of the Hon'ble 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, wherein, the Hon'ble Apex Court has held that the convenience of the wife must be given preference in the matrimonial proceedings.

7. So, for allowing this petition, the fitness of the petitioner/wife, has also taken into account. Accordingly, this petition is allowed. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to F.C.O.P.No.572 of 2018 to the file of the learned Subordinate Judge, Pollachi within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Subordinate Judge, Pollachi is directed to dispose of the case as expeditiously as possible in any event on or before 31.01.2020. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Judge,
Family Court, Salem.

2.The Subordinate Judge,
Pollachi.

+1cc to Mr.L.Mouli, Advocate Sr.91047
+1cc to Mr.C.Prabakaran, Advocate Sr.91318

Tr.C.M.P.No.402 of 2019

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srg 09/12/2019