

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.799 of 2019
and
C.M.P.No.22359 of 2019

K.Nirosha

... Petitioner

Vs.

M.S.Gowrisankar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer the F.C.O.P No.475 of 2017 filed by the respondent pending on the file of the Family Court, Judge at Salem to the file of Subordinate Judge, Perambalur.

For Petitioner : Mr.Sangam Harirai
For Respondent : Mr.T.Sezhian
for Mrs.R.Meenal

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw and transfer the F.C.O.P No.475 of 2017 filed by the respondent pending on the file of the Family Court, Judge at Salem to the file of Subordinate Judge, Perambalur

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between them on 26.02.2016 at Arulmighu Suguneshwarar Swamy Thirukoil, Salem according to Hindu Rights and customs. After the marriage, there was a misunderstanding arose between the parties. The respondent/ Husband had filed a petition in F.C.O.P.No.475 of 2017 on the file of Family Court, Salem for dissolution of marriage under Section 13(1) (a) of Hindu Marriage Act, 1955. The petitioner/wife is the resident of Perambalur. She finds it difficult to travel from Perambalur to Salem to attend the Court proceedings. Therefore, she seeks transfer of the F.C.O.P.No.475 of 2017 filed by the husband before the Family Court, Salem to Sub Court, Perambalur.

3. The learned counsel for the petitioner submitted that the petitioner is now residing at her parental house at Perambalur and she has to take care of her aged mother. The learned counsel further submitted that the respondent is

residing at Bangalore and only to harass the petitioner, he filed a petition before the Family Court, Salem. The respondent is having money and muscle power. Therefore, it is very hard and dangerous for the petitioner to appear before the Family Court, Salem. Hence, it is very difficult for the petitioner to travel from Perambalur to Salem. Because of this, she is facing physical and financial issues. Therefore, it will be appropriate to transfer the case filed by the husband from Salem to Perambalur.

4. The learned counsel for the respondent/husband has vehemently denied all the allegation made by the petitioner.

5. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in F.C.O.P No.475 of 2017 from the file of Famil Court, Salem to the file of Sub Court, Perambalur.

6. Considering the convenience of the parties, this Court is inclined to withdraw the F.C.O.P.No.of 2018 pending on the file of Family Court, Salem and the same be transferred to Sub Court, Perambalur.

7. In view of the submissions made by both the counsel, this Court directs both the parties to maintain discipline and decorum before the Court below and also cooperate with the proceedings.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-)

// True Copy//

Sub Assistant Registrar

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To

1. The Judge, Family Court, Salem.
2. The Sub Judge, Perambalur.

+1cc to M/s.R.Meenal, Advocate, SR.No.96298.

+1cc to M/s.C.Sangamithirai, Advocate, SR.No.96167.

TR C.M.P. No.799 of 2019
and
C.M.P.No.22359 of 2019

(CO)
CSR(09/12/2019)