

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.604 of 2017
and C.M.P.No.12722 of 2017

M.Shalini @ Bhuvaneshwari

..Petitioner

versus

J.Saravanan

..Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1832 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the Family Court, Villupuram.

For Petitioner : Mr.M.Rajkumar
for Mr.R.Karthick Sevugapperumal

For Respondent : Mr.N.Sivakarthik

O R D E R

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw the case i.e. H.M.O.P.No.1832 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the Family Court, Villupuram.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 22.02.2015 in Thiruvateeswarar Temple at Triplicane, Chennai, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were lived together for a considerable period and thereafter, difference of opinion arose between the petitioner and respondent, resultantly, the petitioner left the matrimonial home and residing along with her brother's house at Villupuram.

3. Immediately, after leaving the matrimonial home by the petitioner, the respondent herein has filed a petition against the petitioner before the I Additional Family Court, Chennai, for the relief of annulling the marriage, happened between them on 22.02.2015. The said petition is now pending before the Family Court, Chennai as H.M.O.P.No.1832 of 2017. In the said circumstances, the petitioner has approached this Court by way of filing this Transfer Civil Miscellaneous Petition for the relief stated earlier in the first paragraph of this order.

4. According to the petitioner, her parents are no more and as of now, she is residing at Villupuram with her brother's house, the distance between her residence and Chennai is about 175 kms, being an unemployed lady, it is very difficult for her to travel from Villupuram to Chennai to attend the Court proceedings at Chennai. Further, she is depending on her brother for her day-to-day needs without any independent income.

5. The learned counsel appearing for the respondent submitted that it will not be difficult for the petitioner to attend the Court at Chennai and prayed for dismissal of the transfer petition.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and also perused the materials available on record.

7. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by our Honourable Apex Court in the judgments 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. In this case also, the petitioner categorically stated that she is residing at Villupuram with her brother's house, the said fact was not disputed on the side of respondent. Hence, it is very difficult for her to attend the Court proceedings at Chennai and it is not a easy job for the petitioner to travel 175 kms for attending the Court proceedings at Chennai. Apart from that, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account for considering the issue involved in these type of petitions.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.1832 of 2017 is ordered to be withdrawn from the file of the I Additional Family Court, Chennai and transferred to the file of the Family Court, Villupuram. The learned I Additional Judge, Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.1832 of 2017 to the file of the Family Court, Villupuram, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Judge, Family Court, Villupuram, is directed to dispose of the case as expeditiously as possible, within a period of six months thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

sri

To

1.The Presiding Judge

The I Additional Judge, Family Court, Chennai.

2.The Judge, Family Court, Villupuram.

+1 CC to Mr.R.Karthick Sevugapperumal, Advocate sr 1375

Tr.C.M.P.No.604 of 2017
and C.M.P.No.12722 of 2017

SSD(CO)
SP(31/01/2019)

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