

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.703 of 2018
and C.M.P.No.17446 of 2018

Lakshmi

..

Petitioner

versus

Murugan

..

Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.64 of 2018 pending on the file of the Sub Court, Arani and transfer the same to the file of the Sub Court, Poonamallee.

For Petitioner : M/s.Jerry V.V.Sundar

For Respondent : No Appearance

ORDER

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.64 of 2018 pending on the file of the Sub Court, Arani and transfer the same to the file of the Sub Court, Poonamallee.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 12.06.2013 at Santhi Sampath Marriage Hall, Thiruvannamalai District, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were lived together in the matrimonial home at Chennai for a considerable period. Subsequently, due to the attack made by the respondent, the petitioner was admitted in the General Hospital, Polur, for which, All Women Police Station, registered a case and issued CSR receipt.

3. After some time from the said incident, when the petitioner was in her parents house, the respondent issued a

legal notice dated 19.05.2018, in which, he demanded for giving divorce. Thereafter, the respondent has filed a petition before the Sub Court, Arani, under Section 13(1)(1a) of the Hindu Marriage Act, 1955, for annulling the marriage happened between them on 12.06.2013. As of now, the said petition is pending before the Sub Court, Arani, as H.M.O.P.No.64 of 2018. In the said circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition for the relief stated earlier in the first paragraph of this order.

4. According to the petitioner, she is residing at Chennai along with her parents, the distance between her parents residence and Arani is about 120 kilometers, it is difficult for her to attend the Court proceedings at Arani. Further, she is not having any independent income and she is depending on her parents for her day-to-day needs and for litigation expenses.

5. In respect to the respondent, he was served with Court notice as early as on 02.11.2018 and his name is printed in the cause list, thereafter till today, he has not appeared before this Court either in person or through counsel. It shows that the respondent is not having any objection in respect to this petition.

6. In the said circumstances, as per the affidavit filed by the petitioner, as of now, she is residing with her parents in Chennai, without any independent income, she has specifically stated that, she is depending on her parents for her day-to-day needs. Further, being a lady, it is very difficult for her to attend the Court proceedings at Arani.

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.

8. Apart from that, for raising objection in respect to the allegations levelled by the petitioner against the respondent, the respondent has not appeared before this Court, further 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.

9. In the result, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.64 of 2018 is ordered to be withdrawn from the file of the Sub Court, Arani and transferred to the file of the Sub Court, Poonamallee. The Subordinate Judge, Arani, is directed to transmit all the records pertaining to H.M.O.P.No.64 of 2018 to the file of the Sub Court, Poonamallee, 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, Poonamallee, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sri

To

1.The Subordinate Judge, Arani.

2.The Subordinate Judge, Poonamallee.

+1cc to M/s.Jerry V.V.Sundar, Advocate sr.no.8511

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