

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.746 of 2018
and
C.M.P.No.18337 of 2018

I.Manjula

...Petitioner

Vs

K.Vengadesan

...Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw M.O.P.No.148 of 2018 pending on the file of the Family Court, Puducherry and transfer the same to the file of Family Court, Karur.

For Petitioner : Mr.Sudhakaran
For M/s.Karan and Uday

For Respondent : Mr.R.Venkatesulu

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. M.O.P.No.148 of 2018 now pending on the file of the Family Court, Puducherry and transfer the same to the file of Family Court, Karur.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 29.06.2011 at Bereah Community Hall, Trichy. 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 mother at Karur.

3. Immediately, after leaving the matrimonial home by the petitioner, the respondent herein has filed a petition against the petitioner before the Family Court, Puducherry, for the relief of annulling the marriage, happened between them on 29.06.2011. The said petition is now pending before the Family Court, Puducherry as M.O.P.No.148 of 2018. 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, she is residing at Karur along with her mother, the distance between her residence and Puducherry is about 350 kms, being an unemployed lady, it is very difficult for her to travel from Karur to Puducherry to attend the Court proceedings at Puducherry. Further, she is depending on her mother for her day-to-day needs without any independent income.

5. Per contra, the learned counsel appearing for the respondent would submit that the respondent is working as Lecturer in a Private College at Cuddalore. So, if the petition is allowed in favour of the petitioner, it is difficult for the respondent in attending the Court proceedings at Karur. Further, he would submit that the respondent is willing to pay the travelling expenses to the petitioner.

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 Karur with her mother, the said fact was not disputed on the side of respondent. Hence, it is very difficult for her to attend the Court proceedings at Puducherry, even though the respondent is willing to pay the travelling expenses, it is not a easy job for the petitioner to travel 350 kms for attending the Court proceedings at Puducherry. 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. In this occasion, the learned counsel appearing for the respondent would submit that, if the case is withdrawn from the file of the Family Court, Puducherry and transferred to the

Family Court, Karur, there may be a chance for coming out the further complications between the petitioner and respondent. On considering the said aspect, this Court decided that the Family Court, Namakkal is the appropriate Court, and also it is very convenient for both the petitioner and respondent in participating the Court proceedings.

9. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in M.O.P.No.148 of 2018 is ordered to be withdrawn from the file of the Family Court, Puducherry and transferred to the file of the Family Court, Namakkal. The learned Judge, Family Court, Puducherry is directed to transmit all the records pertaining to M.O.P.No.148 of 2018 to the file of the Family Court, Namakkal, 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, Namakkal, 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.

sri

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Judge,
Family Court,Puducherry.

2.The Judge,
Family Court,Karur.

3.The Judge,
Family Court, Namakkal.

+1cc to M/s.Karan & Uday, Advocate, S.R.No.130

+1cc to M/s.Usha Raman, Advocate, S.R.No.558

Tr.C.M.P.No.746 of 2018
and
C.M.P.No.18337 of 2018

kak(25/01/2019)