

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 03.12.2018

JUDGMENT PRONOUNCED ON : 09.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.805 of 2018  
and C.M.P.No.19874 of 2018

Suganya Singh ... Petitioner

Vs

Lakshmana Prasad @ Prasanna  
Venkatesh Singh ... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of the Civil Procedure to withdraw the H.M.O.P.No.09 of 2018, pending on the file of the learned Subordinate Judge, Theni and to transfer the same to the Family Court, at Chennai.

For Petitioner : Mr.V.Neethidurai

For Respondent : Mr.Anil Relwani

O R D E R

The Petitioner Mrs.suganya Singh is the respondent in H.M.O.P.No.09 of 2017 pending on the file of the learned Subordinate Judge, Theni. Now, she has filed an application under Section 24 of the Civil Procedure Code, to withdraw the said H.M.O.P.No.09 of 2018, from the file of the learned Subordinate Judge, Theni and to transfer the same to the file of the Family Court, Chennai, for joint or simultaneous trial along with the H.M.O.P.No.233 of 2018, which is now pending before the file of the Subordinate Court, Poonamalle.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 09.02.2017 at Venkat Hari Mahal Thirumanamandapam, Padi, Chennai, according to Hindu Rites and

Customs. After the marriage, both of them set up the matrimonial home in Bangalore. After some time, from the date of marriage, due to the ill treatment given by the respondent, difference of opinion arose between them. Hence, the petitioner left the matrimonial home and settled along with her parents in Chennai. After, leaving from the matrimonial home, the petitioner filed an application before the Subordinate Court, Poonamallee against the respondent, seeking the relief of Divorce on the ground of cruelty. In the mean time, the respondent had filed one another application under the provisions of Hindu Marriage Act in H.M.O.P.No.09 of 2018 at Subordinate Court, Theni. Now, both the applications are pending with the respective Courts. In the said circumstances, the petitioner has approached this Court, by way of filing this petition seeking the relief as already stated in the first paragraph of this order. In the petition filed by the petitioner, she raised various allegation against the respondent.

3. On the other hand, by filing a counter, the respondent denied the allegations levelled by the petitioner. However the allegations levelled by either side has to be decided only at the time of trial before the respective Subordinate Court. In otherwise, the only issue raised in this application is whether the petitioner projected the sufficient cause for allowing this application or not.

4. According to the petitioner, she is residing at Chennai along with her parents. The distance between her residence and Theni is more than 400 kilo meters. Being a lady, it is very difficult for her to go to Theni for attending in the Court proceedings. Further, she is not having any independent income she is depending on her parents for her day to day expenses and to her travelling expenses. Unless both the H.M.O.Ps are heard together and decided jointly, there will be a chance for coming out the conflicting Judgments. In the said circumstances, she prays for allowing this petition.

5. The learned counsel appearing for the respondent would submit that, since the respondent is working in Bangalore attending the Court proceedings in Chennai, is very difficult for him. He further submitted that it will not be difficult for the petitioner to attend the Court proceedings at Theni and prayed for dismissal of the transfer application. Finally, he made a submission as if this Court is not inclined to consider the prayer sought by the respondent, time frame may be fixed for disposing both the cases.

6. Heard the learned counsel appearing for the petitioner as well as the respondent and perused the materials available on records.

7. Considering the above contention of the learned counsel for the petitioner as well as the respondent and well settled judicial pronouncement of the Honourable 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], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

8. Accordingly, on considering the fact that the petitioner was residing in Chennai and also an considering the fact that the connected O.P., is pending in Subordinate Court, Poonamalle, in order to avoiding of coming out the conflicting judgments, the Transfer Civil Miscellaneous Petition is ordered. The Petition in H.M.O.P.No.09 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Theni and transferred to the file of the learned Subordinate Judge, Poonamalle, to be tried along with the H.M.O.P.No.233 of 2018, pending on the file of the Subordinate Court, Poonamalle.

9. The learned Subordinate Judge, Theni, is directed to transmit all the records pertaining to H.M.O.P.No.09 of 2018 to the file of the Subordinate 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, Chennai, is directed to dispose of the case as expeditiously as possible not later than four months, from the date of receiving the case records. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते  
Sub Assistant Registrar

Sbn  
To

1. The Subordinate Court, Theni.
2. The Subordinate Court, Poonamalle.

+1 cc to Mr.V.Neethidurai, Advocate Sr.No.2364

Order in  
Transfer CMP. No.805 of 2018  
and C.M.P.No.19874 of 2018

NMI (CO)  
CSL/04.02.2019