

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.01.2019

Coram:

The Honourable Mr. Justice R. PONGIAPPAN

Transfer CMP No.876 of 2018
and C.M.P.No.21580 of 2018

V.Ammu

Petitioner

Versus

A.Raja

Respondent

PRAYER: This Transfer Civil Miscellaneous petition has been filed under Section 24 of the Civil Procedure Code to withdraw H.M.O.P.No.02 of 2018 pending on the file of the Subordinate Court, Kancheepuram, and transfer the same to the file of the Subordinate Court, Arni.

For Petitioner : Mrs.V.Divia Bharathi

For Respondent : No appearance

O R D E R

This Transfer Miscellaneous Petition has been filed by the petitioner under Section 24 of the Civil Procedure Code, for the relief to withdraw the above said H.M.O.P.No.02 of 2018 from the file of learned Subordinate Judge, Kancheepuram and to transfer the same to the file of learned Subordinate Judge, Arni.

2. The petitioner is the wife and the respondent is the husband. The petitioner is the respondent in H.M.O.P.No.02 of 2018 pending on the file of learned Subordinate Judge, Kancheepuram. The marriage between the petitioner and the respondent was conducted on 16.09.2013, as per the Hindu rites and Customs. After the marriage, both the petitioner and the respondent lived together till the year 2017 at Kancheepuram. Thereafter, due to difference of opinion arose between them, the petitioner left the Matrimonial home and joined with her mother at Arni. The petitioner's mother is aged about 70 years and her father is no more. After leaving the Matrimonial home by the petitioner, the respondent has filed an application against the petitioner for the relief of Divorce. The said application has

been pending before the learned Subordinate Judge, Kancheepuram, in H.M.O.P.No.02 of 2018. In the said circumstances, the petitioner has approached this Court, by way of filing this petition seeking for the relief as stated in the paragraph No.1 of this order.

3. In respect to the respondent, since he was served with notice as early as on 20.12.2018, subsequently, he appeared before this Court through his advocate. Thereafter, during the course of trial proceedings, the learned counsel appearing for the respondent has not been appeared before this Court, for representing the case of the respondent. Hence, this Court directed the Registry to post the matter under the caption 'for orders'. Despite, the matter was posted today under the caption 'for orders', there is no representation for the respondent.

4. Now, the learned counsel appearing for the petitioner would contend that the distance between the petitioner's residence i.e., Arni to Kancheepuram, is about 120 Kms. The petitioner is having aged mother and also she is not having any independent income. She is a daily wage employee and lived along with her aged mother. Due to the aforesaid circumstances, it is very difficult for the petitioner to attend the Court proceedings at Kancheepuram. Accordingly, she prayed for allowing this petition.

5. It is not disputed on the side of the respondent that the petitioner is living with her parents within the jurisdiction of Subordinate Court, Arni. Further, it is admitted that she is not having any independent income and she is a daily wage employee. In the said circumstances, it is difficult to her in attending the Court proceedings at Kancheepuram. Apart from that for taking care of her aged mother, the presence of the petitioner is very much necessary at Arni. Before ordering this petition, this Court has gone through the observation of the Hon'ble Apex Court reported 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, wherein, the Hon'ble Apex Court has held that the convenience of the wife must be given preference in the matrimonial proceedings. In this case also considering the fact that the petitioner is residing in a remote village situated within the jurisdiction of Subordinate Court, Arni, it is convenient for her if the case H.M.O.P.No.02 of 2018 is transferred from the file of learned Subordinate Judge, Kancheepuram to the file of Subordinate Court, Arni, to attend the Court proceedings. Since, the respondent being a male member, it is not difficult to him for attending the Court proceedings at Subordinate Court, Arni.

6. For the aforesaid reasons, I am of the considered view that the prayer sought by the petitioner is having merits. Accordingly, this petition is allowed. The case in H.M.O.P.No.02 of 2018 is ordered to be withdrawn from the file of the learned Subordinate Judge, Kancheepuram, and to transfer the same to the file of the learned Subordinate, Arni. The learned Subordinate Judge, Kancheepuram, is directed to transmit all the records pertaining to H.M.O.P.No.02 of 2018 to the file of the learned Subordinate Judge, Arni, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Subordinate Judge, Arni is directed to dispose of the case as expeditiously as possible preferably within a period of six months. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

sbn

To

1.The Subordinate Court, Kancheepuram.

2. The Subordinate Court, Arni.

+1cc to M/s.J.Deveshwaar, Advocate SR.No.5614

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PPA (CO)
GMY (26/02/2019)

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