

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.908 of 2018
and C.M.P.No.22309 of 2018

Kalaiselvi .. Petitioner

versus

M.Praveen Kumar .. Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.239 of 2018 pending on the file of the Principal Sub Court, Tiruppur and transfer the same to the file of the Principal Sub Court, Madurai.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : No Appearance

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.239 of 2018 pending on the file of the Principal Sub Court, Tiruppur and transfer the same to the file of the Principal Sub Court, Madurai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 10.10.2015 at Moovendar Panpattu Kazhagam Thirumana Mandapam, Madurai Road, Melur Taluk, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were lived together in the matrimonial home at Tiruppur for a considerable period. After some time, from the date of marriage, difference of opinion arose between them, resultantly, the petitioner left the matrimonial home and residing along with her parents at Thumbaipatti Village, Melur Taluk situated near to Madurai.

3. After leaving the matrimonial home by the petitioner, she has filed a petition against the respondent before the Judicial Magistrate, Melur, under the provisions of Domestic Violence Act and the same is pending before the

Judicial Magistrate, Melur as D.V.No.29 of 2018. In the meanwhile, the respondent herein filed a petition against the petitioner before the Principal Sub Court, Tiruppur under Section 13(1)(i-a) of the Hindu Marriage Act, for annulling the marriage which happened between them. As of now, the said petition is pending before the Principal Sub Court, Tiruppur, as H.M.O.P.No.239 of 2018. In the said circumstances, the petitioner has approached this Court by way of filing 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 Thumbaipatti Village, Melur Taluk, along with her parents and the distance between her parents residence and Tiruppur is about 250 kilometers, being a lady, it is very difficult for her to attend the Court proceedings at Tiruppur. 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 10.01.2019 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 Thumbaipatti Village, Melur Taluk, 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 Tiruppur.

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.239 of 2018 is ordered to be withdrawn from the file of the Principal Sub Court, Tiruppur and transferred to the file of the Principal Sub Court, Madurai, which is having jurisdiction over the Melur Taluk. The learned Principal Subordinate Judge, Tiruppur, is directed to transmit all the records pertaining to H.M.O.P.No.239 of 2018 to the file of the Principal Sub Court, Madurai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Principal Subordinate Judge, Madurai, 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 Principal Subordinate Judge, Tiruppur.

2.The Principal Subordinate Judge, Madurai.

+1 cc to Mr.K.Goviganesan, Advocate, S.R.No.6857

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CP(CO)
SSM(19/02/2019)