

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.914 of 2018

and

C.M.P.Nos.22430 & 22432 of 2018

C.Clunyleela

...Petitioner

..Vs..

S.P.Mary John

....Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.4 of 2018 pending on the file of the Principal District Court, Karur and transfer the same to the file of the Principal District Court, Salem.

For Petitioner : Mr.S.Arun Prasath
for Mr.M.Guruprasad

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. I.D.O.P.No.4 of 2018 pending on the file of the Principal District Court, Karur and transfer the same to the file of the Principal District Court, Salem.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 08.05.2017 at C.S.I. Holy Trinity Church, Salem, as per Christian religion rites and customs. After the marriage, both the petitioner and respondent were lived together in the matrimonial home for a considerable period. Due to the wedlock, on 02.04.2018, the petitioner gave birth to one male child and as of now, the said child is in the custody of the petitioner.

After gave birth to the said male child, difference of opinion arose between them, resultantly, the petitioner left the matrimonial home and residing along with her parents at Salem.

3. After leaving the matrimonial home by the petitioner, the respondent has filed a petition against the petitioner before the Principal District Court, Karur, under Section 10(x) of Indian Divorce Act, 1869, for the relief of annulling the marriage happened between them on 08.05.2017. The said petition is now pending before the Principal District Court, Karur as I.D.O.P.No.4 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 Salem along with her parents and the distance between her parents residence and Karur is about 100 kilometers, being a lady, it is very difficult for her to attend the Court proceedings at Karur, along with the minor child, who is aged about 9 months. 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 21.01.2019 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 Salem 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 Karur.

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 I.D.O.P.No.4 of 2018 is ordered to be withdrawn from the file of the Principal District Court, Karur and transferred to the file of the Principal District Court, Salem. The learned Principal District Judge, Karur, is directed to transmit all the records pertaining to I.D.O.P.No.4 of 2018 to the file of the Principal District Court, Salem, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Principal District Judge, Salem, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petitions are closed.

sri

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal District Judge,
Karur.
- 2.The Principal District Judge,
Salem.

+1cc to Mr.M.Guruprasad, Advocate vide Sr.No.6391
(dt:07/03/2019)

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KAK(20/02/2019)

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