

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 23.01.2019

JUDGMENT PRONOUNCED ON : 01.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP.No.923 of 2018

and

C.M.P.No.22872 of 2018

S.Mayuri

...Petitioner

Vs

S.Ganesh

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, to withdraw F.C.O.P.No.101 of 2018 from the file of Subordinate Court, Krishnagiri and to transfer the same to the file of Family Court, at Salem.

For Petitioner : Mr.Krishnasamy Chinnasamy

For Respondent : Mrs.Zeenath Begum

O R D E R

The petitioner is the respondent in F.C.O.P.No.101 of 2018 pending on the file of the Subordinate Court, Krishnagiri. Now, this application has been filed by the petitioner for the relief to withdraw the above said F.C.O.P.No.101 of 2018 from the file of Subordinate Court, Krishnagiri, and to transfer the same to the file of Family Court, Salem.

2. The petitioner is the wife and the respondent is her husband. The marriage between the petitioner and the respondent had happened on 04.06.2016 at Sarjini Mahal, Sree Ramalu Nagar, Kaveripattinam, Krishnagiri District, as per Hindu Rites and Customs. After the marriage, both the petitioner and the respondent leading their Matrimonial life in the respondent house. After the marriage, the respondent and his family members were not allowing the petitioner to pursue further studies.

Consequently, due to the difference of opinion arose between them, the petitioner left the Matrimonial home and joined with her parents at Theevattipatti.

3. After leaving the Matrimonial home by the petitioner, the respondent had filed an application before the Subordinate Court, Krishnagiri. In which he is seeking the relief for annulling the marriage happened between the petitioner and the respondent on 04.06.2019. Now, the said application has been pending with the Subordinate Court, Krishnagiri, in F.C.O.P.No.101 of 2018.

4. In the said circumstances, the petitioner has approached this Court by way of filing this petition for the relief to withdraw the above said petition from the file of the Subordinate Court, Krishnagiri and to transfer the same to the Family Court, Salem. Even though, the petitioner raised so many allegations against the respondent in her affidavit. Those allegations have to be dealt with only at the time of trial before the trial Court. The only issue in this application is, whether the petitioner projected sufficient cause for allowing this petition or not.

5. Heard, Mr.Krishnasamy Chinnasamy learned counsel appearing for the petitioner and Mrs.Zeenath Begum learned counsel appearing for the respondent.

6. The learned counsel appearing for the petitioner would contend that the petitioner is not having any independent income and she is depending upon her parents for her day to day expenses. The distance between Theevattipatti and the Subordinate Court, Krishnagiri is about 150Kms. Being a lady it is very difficult for her to attend the Court proceedings at Krishnagiri, after travelling such a long distance.

7. Per contra, the learned counsel appearing for the respondent would contend that, it is not difficult for the petitioner to attend the Court proceedings at Krishnagiri.

8. In the said circumstances, it is relevant to see the Judgments of our Honourable Apex Court reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SCC 396 [Sumita Singh Vs. Kumar Sanjay and another]. In the said Judgments it was held that the convenience of the wife must be given preference for deciding these type of applications. Also considering the facts and circumstances of the case, it is apparent that the residence of the petitioner is Theevettipatti, in Omalur Taluk, and she is not having any independent income. It is very difficult for her in attending the Court proceedings at Krishnagiri. In the said circumstances, since the Subordinate Court, Omalur is situated near to Theevattipatti, I am of a considered view that the Subordinate Court, Omalur is the appropriate place for settling the dispute having by the petitioner and the respondent. On the

other hand, being a male member it is not difficult for the respondent to attend the Court at Omalur.

9. In the light of the above discussions, this Transfer Civil Miscellaneous Petition is ordered. The case in F.C.O.P.No.101 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Krishnagiri, and to transfer the same to the file of the Subordinate Court, Omalur. Which is situated near to the village of the petitioner. The learned Subordinate Judge, Krishnagiri, is directed to transmit all the records pertaining to F.C.O.P.No.101 of 2018 to the file of the Subordinate Court, Omalur, 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, Omalur is directed to dispose of the case as expeditiously as possible. Thus the Transfer Civil Miscellaneous Petition is disposed off. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

sbn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge,
Subordinate Court,
Krishnagiri.
2. The Judge,
Subordinate Court,
Omalur.
3. The Section Officer,
VR Section,
High Court,
Madras.

+1CC TO M/s.Zeenath Begum, Advocate, SR.No.9278

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Kak (22/03/2019)