

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.955 of 2018
and C.M.P.No.23525 of 2018

K.Ashwini

..

Petitioner

versus

N.Elumalai

..

Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.168 of 2018 pending on the file of the Sub Court, Ranipet and transfer the same to the file of Sub Court, Arni.

For Petitioner : Mr.P.Satheesh Kumar

O R D E R

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P.No.168 of 2018 pending on the file of the Sub Court, Ranipet and transfer the same to the file of Sub Court, Arni.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 06.07.2015 at Sri Thangavelu Ellammal Thirumana Mandapam, Vilapakam Village, Arni Road, as per Hindu rites and customs. Subsequently, on 21.08.2015, the marriage was registered in the Office of Sub-Registrar, Arni. After the marriage, both the petitioner and respondent were lived together in the matrimonial home at Coimbatore. Due to the wedlock, the petitioner gave birth to one male child. Now, the said child is having 2 1/2 years. 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 Kanniyanoor Village, Arni. Further, the efforts taken by the petitioner for reunion was ended in futile.

3. In the meanwhile, the respondent has filed a petition before the Sub Court, Ranipet, for the relief of annulling the marriage happened between them on 06.07.2015. The

said petition is now pending before the Sub Court, Ranipet as H.M.O.P.No.168 of 2018. In the said circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition for the relief as stated above.

4. Today, when this matter is taken up for admission, the learned counsel appearing for the petitioner would contend that, since the petitioner is having a child in the age of 2 1/2 years, it is very difficult for her to attend the Court proceedings at the Sub Court, Ranipet. Further, he stated that the petitioner is having age old parents and she is not having any independent income and hence, he prayed for allowing this petition.

5. No doubt, as per the judgments of our Hon'ble Supreme Court 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, the convenience of the wife must be given preference in the matrimonial proceedings. However, in this case, the petitioner herself admitted in her petition that the distance between her parents residence and the Sub Court, Ranipet is only 32 kms. Furthermore, since the said H.M.O.P. is pending with the Sub Court, Ranipet, appearance of party before the Sub Court, Ranipet, for each and every hearing is not necessary.

6. In view of the above said fact, particularly the travelling of 32 kms is not a difficult task to the petitioner, this Court came to the conclusion that this is not a fit case and the prayer sought for by the petitioner is not having sufficient ground for transferring this Petition from the file of the Sub Court, Ranipet to the file of the Sub Court, Arni. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

sri

Sub Assistant Registrar

To

1.The Subordinate Judge, Ranipet.

+lcc to Mr.P.Satheesh Kumar, Advocate, S.R.No.497

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SKV(CO)

SSM(07/01/2019)