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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.65 of 2022
and C.M.P.No.1341 of 2022

R.S.Moni Sailaja

... Petitioner

..Vs..

T.Paul Mony @ Balan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.1309 of 2021 on the file of Family Court of Kanniyakumari at Nagercoil and transfer the same to the Court of Subordinate Judge, Ponneri.

For Petitioner : Ms.S.Vinodha

For Respondent : Mr.B.K.Ganesh Neelakandan

O R D E R

This petition is filed to withdraw H.M.O.P.No.1309 of 2021 from the file of Family Court of Kanniyakumari at Nagercoil and transfer the same to the Court of Subordinate Judge, Ponneri.

2 Heard the learned counsel for the petitioner as well as learned counsel appearing for the Respondent.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 06.11.2016 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.OP.No.1309 of 2021 on the file of the Family Court, Kanniyakumari at Nagercoil, against the Petitioner seeking divorce. Now, the Petitioner herein who is the wife has preferred the present petition to withdraw H.M.O.P.No.1309 of 2021 pending on the file of Family Court, Kanniyakumari at Nagercoil and transfer the same to the file of Subordinate Judge, Ponneri.

4. The Petitioner has stated that she is staying with her aged parents and she has no source of income and hence it is very difficult for her to travel from her native place to Kanniyakumari to attend the Court proceedings .



5. The learned counsel appearing for the Respondent submitted that this petition for transfer has been filed only to drag on the proceedings and prayed for dismissal of the transfer petition.

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6. It is needless to state that in matrimonial proceedings, preference should be given to the convenience of the wife. The said position has been settled in various Judgments of the Hon'ble Supreme Court and more particularly in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Infact as per amended Section 19(iii-a) of the Hindu Marriage Act, 1955, the wife is guarded with the right to file proceedings in the place where she resides. The above amendment was brought with the object of facilitating the wife to participate in the matrimonial proceedings without any hardship. In view of the above reasons, I feel that the prayer of the petitioner should be considered favourably.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.1309 of 2021 filed by the Respondent is ordered to be withdrawn from the file of Family Court, Kanniyakumari at Nagercoil and transferred to the file of Subordinate Judge, Ponneri. The learned Judge, Family Court, Kanniyakumari at Nagercoil is directed to transmit all the records pertaining to H.M.O.P.No.1309 of 2021 to the file of the Subordinate Judge, Ponneri, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

arr

To

1. The Judge/Presiding Officer,
Family Court, Kanniyakumari at Nagercoil.

2. The Subordinate Judge, Ponneri.

+1cc to M/s.S.Vinodha, Advocate, S.R.No.32900

Tr.C.M.P. No.65 of 2022
and C.M.P.No.1341 of 2022

MT (CO)
SB(23/06/2022)