



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tr.C.M.P. No.150 of 2022
and C.M.P.No.2910 of 2022

S.Nisha ... Petitioner/Respondent
..Vs..

R.Vivek ... Respondent/ Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw and transfer H.M.O.P.No.51 of 2021 from the file of the Sub Court at Attur to the file of the Subordinate Court, Rasipuram.

For Petitioner : Mr.D.M.Senthil Kumar
For Respondent : Mr.C.Prabakaran

O R D E R

This petition is filed to withdraw the H.M.O.P.No.51 of 2021 on the file of the Sub Court at Attur and transfer the same to the file of the Subordinate Court, Rasipuram.

2.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 17.06.2018 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.51 of 2021 on the file of the Subordinate Court, Attur, 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.51 of 2021 pending on the file of the Subordinate Court, Attur, and transfer the same to the file of the Subordinate Court, Rasipuram.

4. The petitioner has stated that she is staying with her parents along with her 1.5 years old son and it is very difficult for her to travel from Rasipuram to Attur for attending the Court proceedings at Attur.



5. The learned counsel 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.

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 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 the 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.51 of 2021 filed by the Respondent is ordered to be withdrawn from the file of Subordinate Court, Attur and transferred to the file of the Subordinate Court, Rasipuram. The learned Sub Judge, Attur, is directed to transmit all the records pertaining to H.M.O.P.No.51 of 2021 to the file of the Subordinate Court, Rasipuram, 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 II)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub Judge, Attur.

2.The Sub Judge, Rasipuram.

+1cc to Mr.I.Arokiasamy, Advocate, S.R.No.35466
+1cc to Mr.C.Prabakaran, Advocate, S.R.No.36055

Tr.C.M.P. No.150 of 2022
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SJ(CO)
CT/28/06/2022