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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

TR.CMP.Nos.172 & 324 of 2022
and
CMP.Nos.3351 & 6493 of 2022

S.Poonkuzhali ... Petitioner in both cases
Vs.
Devendrakumar ... Respondent in both cases

COMMON PRAYER: The Memorandum of Transfer Civil Miscellaneous Petitions filed under Section 24 of Civil Procedure Code, to withdraw the H.M.O.P.No.413 of 2020, pending on the file of the Sub Court, Poonamallee and the H.M.O.P.No 17 of 2022, pending on the file of the Sub Court, Kancheepuram and the transfer the same to the file of the Family Court at Chennai.

In both cases
For Petitioner : Mr.J.Saravavel

COMMON ORDER

The present petitions have been preferred to withdraw the H.M.O.P.No.413 of 2020, pending on the file of the Sub Court, Poonamallee and the H.M.O.P.No 17 of 2022, pending on the file of the Sub Court, Kancheepuram and transfer the same to the file of the Family Court, Chennai.

2. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of the respondent.

3. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 02.11.2016 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the petitioner/wife filed a petition in H.M.O.P.No.413 of 2020 on the file of the Sub Court, Poonamallee against the respondent for seeking divorce. Pending the said HMOP, the respondent / husband had filed H.M.O.P.No.17 of 2022 on the file of the Sub Court, Kancheepuram, seeking restitution of conjugal rights. Now, the petitioner has preferred the present petitions to



withdraw H.M.O.P.No.413 of 2020 pending on the file of the Sub Court, Poonamallee and H.M.O.P.No. 17 of 2022 pending on the file of the Sub Court, Kancheepuram and transfer the same to the file of the learned Judge, Family Court, Chennai.

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4. The contention of the petitioner/wife is that recently, she has shifted her residence to Chennai as she is pursuing her Ph.D in VIT Engineering College at Chennai campus and she needs to work in the lab on all the days from Monday to Friday from 9.30 am to 5.30 pm and it is difficult for her to travel from Chennai to Kancheepuram covering a distance of 150 kms for attending Court proceedings.

5. It is needless to say that in the matrimonial proceedings, preference in jurisdiction should be given to the convenience of the wife. The said position has been settled in various judgements of the Hon'ble Supreme Court and more particularly the Judgement 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]. In fact 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.

6. Accordingly, the Transfer Civil Miscellaneous Petitions are allowed. The petitions in H.M.O.P.No.413 of 2020 pending on the file of the Sub Court, Poonamallee and H.M.O.P.No.17 of 2022 pending on the file of the Sub Court, Kancheepuram, are ordered to be withdrawn from their respective Courts and transferred to the file of the Family Court at Chennai. The learned Sub Judge, Poonamallee and Kancheepuram are directed to transmit all the records pertaining to H.M.O.P concerned to the file of the Family Court at Chennai, within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

jrs



To

1. The Sub Court, Ponamallee.

2. The Sub Court, Kancheepuram.

3. The Family court, Chennai.

4. The Section Officer,
VR Section, Madras High Court,
Chennai.

+1cc to Mr.J.Saravavel, Advocate SR.No.32969

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and
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RSV(CO)
GMY(24/06/2022)