



WEB COPY

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.190 of 2022
and C.M.P.No.3816 of 2022

R.N.Datchayini

... Petitioner

..Vs..

R.Parthiban

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.564 of 2021 on the file of the Family Court, Tiruchirapalli and to transfer same to Sub Court, Hosur.

For Petitioner : Mr.S.C.Vishwanth

For Respondent : Mr.R.Amardeep

O R D E R

This petition is filed to withdraw H.M.O.P.No.564 of 2021 pending on the file of Family Court, Tiruchirapalli and to transfer the same to the Sub Court, Hosur.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 03.11.2014. After marriage, the Respondent and his family members started demanding dowry from the Petitioner and thereafter drove her away from the matrimonial home by alleging that she is suffering from Obsessive Compulsive Disorder disease. Left with no other option, the Petitioner left matrimonial home and presently living with her parents. Thereafter, the respondent filed H.M.O.P.No.564 of 2021 on the file of the Family Court, Trichy seeking divorce.

3.According to the petitioner, she is staying with her aged parents at Hosur and the distance between Hosur and Trichy is 620 Kms and therefore it is very difficult for her to travel such a long distance to attend the Court proceedings at Tiruchirapalli. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.564 of 2021 pending on the file of Family Court, Tiruchirapalli to the



file of Sub Court, Hosur.

4. A counter Affidavit has been filed by the Respondent, wherein it is stated that the Petitioner is suffering from Obsessive Compulsive Disorder (OCD) and though the Respondent made efforts to give treatment to OCD by taking her to Super Speciality Hosptial, the Petitioner has not co-operated for the same. The learned counsel appearing for the Respondent submitted that the Petitioner's mother is suffering from cancer and he has to take care of her and if this petition is allowed, the it would be extremely difficult for him to attend each and every hearing at Sub Court, Hosur.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Considering the above contention of the learned counsel for the petitioner and well settled judicial pronouncement of the Hon'ble Supreme Court 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], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.190 of 2022 filed by the Respondent is ordered to be withdrawn from the file of Family Court, Tiruchirappalli and transferred to the file of the Sub Court, Hosur. The learned Judge, Family Court, Tiruchirappalli is directed to transmit all the records pertaining to H.M.O.P.No.564 of 2021 to the file of the Sub Court, Hosur, within a period of two weeks from the date of receipt of a copy of this order. Since, the matter is getting transferred to Sub Court, Hosur the Respondent is at liberty to file vakalat through his counsel. However, the Respondent has to make his appearance only as and when the Court directs. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Family Court Judge, Thiruchirappalli.

2.The Subordinate Judge, Hosur.

+1cc to Mr.R.Amardeep, Advocate, S.R.No.32720

+1cc to Mr.S.C.Vishwanth, Advocate, S.R.No.32379

Tr.C.M.P. No.190 of 2022
and C.M.P.No.3816 of 2022

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