

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tr.C.M.P.No.223 of 2022

and

C.M.P.No.4548 of 2022

Sangeetha		... Petitioner
	Vs.	
Bhoopathy		... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the case in F.C.O.P.No.35 of 2022 on the file of Judge, Family Court, Vellore, and transfer the same to Judge, Family Court, Thiruvannamalai.

For Petitioner : Mr.S.Silambu Selvan

For Respondent : Mr.B.Sundarapandiyan

O R D E R

This petition has been preferred to withdraw F.C.O.P.No.35 of 2022 pending on the file of the Family Court, Vellore and transfer the same to the file of the Family Court, Thiruvannamalai.

2. Heard the learned counsel for the petitioner and the learned counsel respondent and also 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 27.11.2020 as per Hindu Rights and Customs. Since the relationship between the couple went bitter, the Respondent/Husband filed F.C.O.P.No.35 of 2022 before the learned Judge, Family Court, Vellore against the petitioner for Restitution of Conjugal Rights. Now, the petitioner herein who is the wife has preferred the present petition to withdraw F.C.O.P.No.35 of 2022 pending on the file of the Family Court, Vellore and transfer the same to the file of Family Court, Thiruvannamalai.

4. The petitioner has stated that she is staying with her aged parents and it is very difficult for her to travel from Vellore to Tiruvannamalai for attending the Court proceedings at Vellore.

5. The learned counsel for the respondent submitted that the respondent/husband is a physically challenged person and it is very difficult for him to travel from Vellore to Tiruvannamalai, in case of transferring the petition to Tiruvannamalai. In view of the said submission made by the learned counsel for the respondent, it is ordered to produce the disability certificate of the respondent before this Court. Accordingly, the disability certificate of the respondent is produced.

6. On perusal of the disability certificate it is seen that the petitioner has some weakness of grip over his left leg and rest of his locomotive features are normal. In fact the respondent is working as a Commercial Assistant in Tamil Nadu Electricity Board and he has also given a concession certificate for travelling in rail at concessional rates. So the above materials produced before us, will only show that the respondent is not incapable of travelling from one place to another place. In fact he cannot avoid travel for the purpose of his employment also.

7. 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]. 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.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in F.C.O.P.No.35 of 2022 filed by the Respondent is ordered to be withdrawn from the file of the Family Court, Vellore and transferred to the file of learned Judge, Family Court, Tiruvannamalai. The learned Judge, Family

Court, Vellore is directed to transmit all the records pertaining to F.C.O.P.No.35 of 2022 to the file of the learned Judge, Family Court, Tiruvannamalai, 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge,
Family Court,
Vellore.
2. The Judge,
Family Court,
Tiruvannamalai.

+1cc to Mr.B.Sundarapandiyan, Advocate, S.R.No.37729

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and
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AJB[co]
NSK/13/07/2022