

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.236 of 2022 and
C.M.P.No.4768 of 2022

1.Eswari

2.Minor Pavin

3.Minor Harith

Rep by Mother/Guardian P-1

... Petitioners

..Vs..

Sakthivel

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.2043 of 2021, pending on the file of the Sub Court, Alandur and transfer the same to any Competent Court, Tenkasi.

For Petitioners: Mr.A.Sivaji

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P.No.2043 of 2021, pending on the file of the Sub Court, Alandur and transfer the same to any Competent Court, Tenkasi

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

3.The first petitioner is the wife, the petitioners 2 and 3 are sons and respondent is the husband. The marriage between the first petitioner and respondent was solemnized on 27.11.2006 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.2043 of 2021, on the file of the Sub Court, Alandur, against the petitioner seeking divorce. Now, the first petitioner herein who is the wife and petitioners 2 and 3 who are the sons have preferred the present petition to withdraw H.M.O.P.No.2043 of 2021 pending on the file of Sub Court, Alandur and transfer the same to any Competent Court at Tenkasi.

4. The first petitioner has stated that now she is residing at Thenkasi and the petitioners 2 and 3 are going to school at Thenkasi and it is very difficult for the first petitioner to travel from Thenakasi to Alandur, Chennai along with two minor sons, for attending the Court proceedings at Alandur, Chennai.

5. 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 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 Petition is allowed. The petition in H.M.O.P.No.2043 of 2021 filed by the Respondent is ordered to be withdrawn from the file of Sub Court, Alandur and transferred to the file of the Family Court, Thenkasi. The learned Judge, Sub Court, Alandur, is directed to transmit all the records pertaining to H.M.O.P.No.2043 of 2022 to the file of the Family Court, Thenkasi, 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

vkr

To

1.The Judge, Sub Court, Alandur.

2.The Judge, Family Court, Thenkasi.

+1cc to Mr.A.Sivaji, Advocate, S.R.No.39524

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GSM(CO)
SB(11/07/2022)