

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.252 of 2022 and
C.M.P.No.5077 of 2022

Latha

... Petitioner

..Vs..

Kesavan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.4 of 2022, pending on the file of the Subordinate Judge, Mettupalayam and transfer the same to the Judge, Family Court, Chengalpattu.

For Petitioner : Mr.S.Muthukrishnan

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P.No.4 of 2022, pending on the file of the Sub Court at Mettupalayam and transfer the same to the Family Court, Chengalpattu.

2. Notice to the respondent has been sent through E-mail by the learned counsel for the petitioner as per the direction of this Court dated 28.04.2022 and the same has been received by the respondent. The copy of the sent mail has also been furnished before this Court. Despite the same, the respondent did not make his appearance before this Court either in person or through counsel.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 23.08.2018 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.4 of 2022, on the file of the Sub Court, Mettupalayam, 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.4 of 2022, pending on the file of Sub Court, Mettupalayam and transfer the

same to the file of the learned Judge, Family Court, Chengalpattu.

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

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.4 of 2022 filed by the Respondent is ordered to be withdrawn from the file of Sub Court, Mettupalayam and transferred to the file of the Family Court, Chengalpattu. The learned Judge, Sub Court, Mettupalayam, is directed to transmit all the records pertaining to H.M.O.P.No.4 of 2022 to the file of the Family Court, Chengalpattu, 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 IX)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Judge, Subordinate Judge,Mettupalayam.

2.The Judge, Family Court, Chengalpattu.

+1 cc to Mr.M.Sridhar, Advocate Sr.NO. 36767

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AJS(CO)

A.SK(12/07/2022)