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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.247 of 2022
and
C.M.P.No.4975 of 2022

Mrs.Krithika

... Petitioner

..Vs..

Mr.M.G.Rajula@Raju

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.82 of 2021 on the file of Principal Sub-Judge of Chengalpattu and transfer the same to the file of the Hon'ble Family Court, Pondicherry.

For Petitioner : Ms.B.Girija

For Respondent : Mr.R.Vinothkumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.82 of 2021 from the file of Principal Sub-Judge of Chengalpattu and transfer the same to the file of the Hon'ble Family Court, Pondicherry.

2 Heard the learned counsel for the petitioner as well as learned counsel appearing for the Respondent.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 09.02.2012 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.OP.No.82 of 2021 on the file of the Principal Sub Judge, Chengalpattu, against the Petitioner for restitution of conjugal rights. Now, the Petitioner herein who



is the wife has preferred the present petition to withdraw H.M.O.P.No.82 of 2021 pending on the file of Subordinate Judge, Chengalpet and transfer the same to the file of Family Court, Pondicherry.

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4. The Petitioner has stated that she is staying with her parents and that apart her father had recently undergone a major spinal cord surgery and therefore he is not in a position to accompany her to Chengalpet to attend Court proceedings.

5. The learned counsel appearing for the Respondent submitted that this petition for transfer has been filed only to drag on the proceedings and prayed for dismissal of the transfer petition.

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 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 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 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.82 of 2021 filed by the Respondent is ordered to be withdrawn from the file of Subordinate Judge, Chengalpet and transferred to the file of Family Court, Pondicherry. The learned Judge, Subordinate Court, Chengalpet is directed to transmit all the records pertaining to H.M.O.P.No.82 of 2021 to the file of the Family Court, Pondicherry, 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-VI)

//True Copy//

Sub Assistant Registrar

arr



To

1. The Subordinate Judge,
Chengalpattu.
2. The Judge,
Family Court,
Pondicherry.

+1cc to M/s.B.Girija, Advocate, S.R.No.33510

Tr.C.M.P. No.247 of 2022
and
C.M.P.No.4975 of 2022

NRL (CO)
UMA (17/06/2022)