



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.274 of 2022
and C.M.P.No.5447 of 2022

S.Akshaya

... Petitioner

..Vs..

J.Surya

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw HMOP.No.15 of 2022 on the file of the Sub-Court, Ulundurpet and transfer the same to Family Court, Tiruvallur to take up the said Original Petition along with HMOP.No.66 of 2021 pending on the file of the Family Court, Tiruvallur.

For Petitioner : Mr.C.Prabhu

For Respondent : No appearance

O R D E R

This petition is filed to withdraw HMOP.No.15 of 2022 on the file of the Sub-Court, Ulundurpet and transfer the same to Family Court, Tiruvallur to take up the said Original Petition along with HMOP.No.66 of 2021 pending on the file of the Family Court, Tiruvallur.

2. Heard the learned counsel for the petitioner and perused the materials available on record. Though the notice was served on the respondent on 27.04.2022, there is no representation on behalf of the respondent.

3.The petitioner is the wife and respondent is the husband. The respondent forged certain documents and obtained a marriage certificate by misleading the public authorities as if the marriage has been solemnized between them on 03.12.2018. The petitioner has filed a petition in HMOP.No.66 of 2021 on the file of the Family Court, Tiruvallur for annulment of the alleged marriage and the respondent has filed a petition in HMOP.No.15 of 2022 on the file of the Subordinate Court, Ulundurpet 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.15 of 2022 pending on the file of the Subordinate Court, Ulundurpet and transfer the same to the file of the Family Court, Tiruvallur to be tried along with HMOP.No.66 of 2021.

WEB COPY

4. The learned counsel for the petitioner submitted that the though HMOP.No.66 of 2021 has been pending before the Family Court, Tiruvallur for more than a year, the respondent with a malicious intention to drag on the proceedings has filed HMOP.No.15 of 2022 before the Sub Court, Ulundurpet. Hence, he seeks for transfer of the said HMOP.No.15 of 2022.

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.15/2022 filed by the Respondent is ordered to be withdrawn from the file of Subordinate Court, Ulundurpet and transferred to the file of the Family Court, Tiruvallur. The learned Subordinate Judge, Ulundurpet is directed to transmit all the records pertaining to H.M.O.P.No.15/2022 to the file of the Family Court, Tiruvallur, within a period of two weeks from the date of receipt of a copy of this order and the same shall be tried along with HMOP.No.66 of 2021. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

dsa



To

1.The Family Court Judge,
Tiruvallur.

2.The Subordinate Judge,
Ulundurpet.

Tr.C.M.P. No.274 of 2022

RSV (CO)
SB (30/06/2022)