

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

TR.C.M.P. NO.280 OF 2022

AND

C.M.P.NO.5644 OF 2022

V.Nilavazhagi

...Petitioner / Respondent

Vs

T.Manimaran

...Respondent / Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.7 of 2022 pending on the file of the Principal Subordinate Court, Mayiladuthurai and to transfer the same to the file of the Subordinate Court, Chidambaram.

For Petitioner : Mr.C.Prabakaran

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.7 of 2022 pending on the file of the Principal Subordinate Court, Mayiladuthurai and transfer the same to the Subordinate Court, Chidambaram.

2.Heard the learned counsel for the petitioner and perused the materials available on record. The respondent, though served, has not entered appearance either in person or through counsel.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 02.06.2014 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.7 of 2022 on the file of the Principal Subordinate Court, Mayiladuthurai, 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.7 of 2022 on the file of the Principal Subordinate Court, Mayiladuthurai and transfer the same to the file of the learned Judge, Subordinate Court, Chidambaram.

4. The petitioner has stated that she is staying with her two minor children and aged parents and it is very difficult for her to travel from Chidambaram to Mayiladuthurai for attending the Court proceedings at Mayiladuthurai.

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.7 of 2022 filed by the Respondent is ordered to be withdrawn from the file of Principal Subordinate Court, Mayiladuthurai and transferred to the file of the Subordinate Court, Chidambaram. The learned Judge, Principal Subordinate Court, Mayiladuthurai, is directed to transmit all the records pertaining to H.M.O.P.No.7 of 2022 to the file of the Subordinate Court, Chidambaram, 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(CO)

// True Copy //

Sub Assistant Registrar

vkr

To

1.The Principal Subordinate Judge,
Mayiladuthurai.

2.The Subordinate Judge,
Chidambaram.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.Prabakaran, Advocate Sr.No.39419

Tr.C.M.P. No.280 of 2022
and C.M.P.No.5644 of 2022

MG(CO)
RVM(11/07/2022)