

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tr.C.M.P. No.327 of 2022

and

C.M.P.No.6560 of 2022

Dhivya @ Shanmuga Priya ...Petitioner/Respondent
..Vs..

M.Sathish Kumar ...Respondent/Petitioner

Prayer:-Petition is filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.514 of 2021, pending on the file of the Family Court, Salem and transfer the same Family Court, Chengalpet to be tried along with F.C.M.C.No.38 of 2021.

For Petitioner : Mr.A.P.Sathya Murthy

For Respondent : Mr.S.Sathyaraj

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P.No.514 of 2021, pending on the file of the Family Court, Salem and transfer the same Family Court, Chengalpet to be tried along with F.C.M.C.No.38 of 2021.

2.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 01.09.2019 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.514 of 2021, on the file of the Family Court, Salem, 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.514 of 2021 pending on the file of Family Court, Salem and transfer the same to the Family Court, Chengalpet to be tried along with F.C.M.C.No.38 of 2021, which is filed by the petitioner/wife.

4.The petitioner has stated that she is staying with her

aged parents and it is very difficult for the petitioner to travel from Chengalpet to Salem, for attending the Court proceedings at Salem.

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.514 of 2021 filed by the Respondent is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of the Family Court, Chengalpet to be tried along with F.C.M.C.No.38 of 2021, which is filed by the petitioner/wife. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to H.M.O.P.No.514 of 2021 to the file of the Family Court, Chengalpet, 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 VII)

//True Copy//

Sub Assistant Registrar

vkr

To

1.The Judge, Family Court, Salem.

2.The Judge, Family Court, Chengalpet.

+1cc to Mr.A.P.Sathyamurthy, Advocate, S.R.No.41035

+1cc to Mr.S.Sathyaraj, Advocate, S.R.No.40192

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SR(CO)

RGA(13/07/2022)