

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P.No.294 of 2022

and

C.M.P.No.5881 of 2022

Gokula Lakshmi

...Petitioner/Respondent

Vs

D.Venkatesan

...Respondent/Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., pleaded to withdraw H.M.O.P.No.367 of 2019 pending on the file of the Family Court, Salem and transfer the same to the Sub Court, Omalur.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.C.Prabakaran

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.367 of 2019 pending on the file of the Family Court, Salem and transfer it to the Sub Court, Omalur.

2.Heard the learned counsel appearing for both the petitioner and 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 06.06.2011 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.367 of 2019, 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.367 of 2019 pending on the file of the Family Court, Salem and transfer the same to the file of the Sub Court, Omalur.

4.The petitioner has stated that now she is residing with her aged parents along with her girl child and it is very difficult for her to travel from Omalur 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.367 of 2019 filed by the Respondent is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of Sub Court, Omalur. The learned Judge, Family Court, Salem, is directed to transmit all the records pertaining to H.M.O.P.No.367 of 2019 to the file of the Sub Court, Omalur, 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-V)

//True Copy//

Sub Assistant Registrar

rgi

To

1. The Judge, Family Court,Salem.

2. The Judge, Sub Court, Omalur.

+1cc to M/s.B.Kumarasamy, Advocate, S.R.No.40305

+1cc to M/s.C.Prabakaran, Advocate, S.R.No.40376

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SSN(CO)
RGA(19/07/2022)