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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM :

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Tr.C.M.P. No.286 of 2022
and C.M.P.No.5765 of 2022

Nithyapriya

... Petitioner

..Vs..

V.Ramasubramanian

... Respondent

Prayer:-

Petition is filed under Section 24 of C.P.C., to withdraw the petition in H.M.O.P.No.444 of 2021 on the file of the Family Court, Salem and transfer it to the Family Court, Namakkal.

For Petitioner : Mr.S.P.Yuvaraj

For Respondent : Mr.T.Sezhian

O R D E R

This petition is filed to withdraw the petition in H.M.O.P.No.444 of 2021 from the file of the Family Court, Salem and transfer it to the Family Court, Namakkal.

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

3. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and respondent was solemnized on 15.05.2000 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.OP.No.444 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.444 of 2021 pending on the file of Family Court, Salem and transfer the same to the file of Family Court, Namakkal.



4. The learned counsel for the petitioner stated that she is residing with her aged parents and she is unemployed and no source of income. It is further stated that it will be very difficult for her to travel from Namakkal to Salem for attending the Court proceedings at Namakkal.

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 the 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]. In fact 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.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.444 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, Namakkal. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to H.M.O.P.No.444 of 2021 to the file of the Family Court, Namakkal, 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

ssn

To

1. The Judge, The Family Court,
Salem.



2. The Judge, The Family Court,
Namakkal.

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+1cc to M/s.R.Meenal, Advocate, S.R.No.36377

+1cc to Mr.S.P.Yuvaraj, Advocate, S.R.No.36311

Tr.C.M.P. No.286 of 2022
and
C.M.P.No.5765 of 2022

AJB (CO)
CT/30/06/2022