



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.332 of 2022
and C.M.P.No.6637 of 2022

S.Pavithra

... Petitioner

..Vs..

M.Senthil @ Senthilkumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the petition in HMOP.No.27 of 2022 on the file of the Principal Sub-Court at Kumbakonam and transfer the same to the Family Court, Cuddalore in M.C.No.1 of 2022 for joint trial.

For Petitioner : Mr.R.Muralidharan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the petition in HMOP.No.27 of 2022 on the file of the Principal Sub-Court at Kumbakonam and transfer the same to the Family Court, Cuddalore in M.C.No.1 of 2022 for joint trial.

2. Heard the learned counsel for the petitioner and perused the materials available on record. Notice sent to the respondent has been returned as refused.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 30.03.2015 as per Hindu rites and customs. The petitioner/ wife filed a case in M.C.No.1 of 2022 on the file of the Family Court, Cuddalore seeking maintenance from the respondent/ husband. The respondent/ husband filed a petition in HMOP.No.27 of 2022 on the file of the Principal Sub-Court, Kumbakonam seeking restitution of conjugal rights. Now, the Petitioner herein who is the wife has preferred the present petition to withdraw H.M.O.P.No.27 of 2022 pending on the file of the Principal Sub-Court, Kumbakonam and transfer the same to the file of Family Court, Cuddalore to be tried along with M.C.No.1 of 2022.



4. The petitioner has stated that she is staying at Cuddalore and the respondent is an influential person at Kumbakonam and he is threatening her. Hence, seeks transfer of HMOP.No.27 of 2022 to Family Court, Cuddalore to be tried along with M.C.No.1 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.27/2022 filed by the Respondent is ordered to be withdrawn from the file of Principal Sub-Court, Kumbakonam and transferred to the file of the Family Court, Cuddalore. The learned Principal Sub-Judge, Kumbakonam is directed to transmit all the records pertaining to H.M.O.P.No.27/2022 to the file of the Family Court, Cuddalore, within a period of two weeks from the date of receipt of a copy of this order to be tried along with M.C.No.1 of 2022. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

dsa

To

1. The Judge, Family Court,
Cuddalore.



2.The Principal Subordinate Judge,
Kumbakonam.

+1cc to Mr.R.Muralidharan, Advocate SR.No.35632

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Tr.C.M.P. No.332 of 2022

RK (CO)
GMY (30/06/2022)