

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tr.C.M.P.No.312 of 2022

and

C.M.P.No.6319 of 2022

Sivapriya

... Petitioner

Vs.

Sivakumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw O.P.No.3454 of 2018 and M.C.No.345 of 2018 pending on the file of the VI Additional Family Court Judge, Chennai to be tried along with O.P.No.4196 of 2017 pending before the III Additional Family Court, Chennai.

For Petitioner : Ms.P.Srividhya
For Respondent : No appearance

O R D E R

This petition has been preferred to withdraw O.P.No.3454 of 2018 and M.C.No.345 of 2018 pending on the file of the VI Additional Family Court, Chennai to be tried along with O.P.No.4196 of 2017 pending before the III Additional Family Court, Chennai.

2. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent, there is no representation on behalf of the respondent.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 20.01.2018. Since the relationship between the couple went bitter, the Respondent/Husband filed O.P.No.4196 of 2017 on the file of the VI Additional Family Court, Chennai against the petitioner seeking divorce and the said petition was now transferred to the file of the III Additional Family Court, Chennai at the instance of the petitioner/wife in Tr.C.M.P.No.891 of 2021. Now, the petitioner herein who is the wife has preferred the present petition to withdraw O.P.No.3454 of 2018 and

M.C.No.345 of 2018 pending on the file of the VI Additional Family Court, Chennai to be tried along with O.P.No.4196 of 2017 pending before the III Additional Family Court, Chennai.

4. The petitioner has stated that O.P.No.4196 of 2017 pending on the file of the VI Additional Family Court, Chennai was already transferred to the file of the III Additional Family Court, Chennai and hence, connected petitions in O.P.No.3454 of 2018 and M.C.No.345 of 2018 filed against the respondent/husband seeking Restitution of Conjugal Rights and maintenance may also be transferred to the file of the III Additional Family Court, Chennai.

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, 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in O.P.No.3454 of 2018 and M.C.No.345 of 2018 filed by the petitioner/wife is ordered to be withdrawn from the file of the VI Additional Family Court, Chennai and transferred to the file of the III Additional Family Court, Chennai to be tried along with O.P.No.4196 of 2017. The learned VI Additional Judge, Family Court, Chennai is directed to transmit all the records pertaining to O.P.No.3454 of 2018 and M.C.No.345 of 2018 to the file of the III Additional Family Court, Chennai, 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

True Copy//

Sub Assistant Registrar

ms

To

1. The VI Additional Judge,
Family Court, Chennai
2. The III Additional Judge,
Family Court, Chennai.

+1cc to M/s.P.Srividhya, Advocate, S.R.No.37043

Tr.C.M.P.No.312 of 2022
and
C.M.P.No.6319 of 2022

RLD[co]
NSK/15/07/2022