

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.331 of 2022 and
C.M.P.No.6609 of 2022

M.Subathra ... Petitioner
..Vs..

R.Manikanndan ... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.67 of 2020, pending on the file of the Principal Subordinate Court, Virudhachalam and transfer the same IV Additional Family Judge, Chennai to be tired along with H.M.O.P.No.1794 of 2020 having competent jurisdiction.

For Petitioner : Mr.S.Elavarasan
For Respondent : Mr.C.Arunkumar

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P.No.67 of 2020, pending on the file of the Principal Subordinate Court, Virudhachalam and transfer the same IV Additional Family Court, Chennai to be tired along with H.M.O.P.No.1794 of 2020.

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 10.02.2016 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.67 of 2020, on the file of the Principal Subordinate Court, Virudhachalam, 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.67 of 2020 pending on the file of Principal Subordinate Court, Virudhachalam and transfer the same to the IV Additional Family Court, Chennai to be tired along with H.M.O.P.No.1794 of 2020, which is filed by the petitioner/wife.

4. The petitioner has stated that she is staying with her 4 years old son and it is very difficult for the petitioner to travel from Chennai to Virudhachalam, for attending the Court proceedings at Virudhachalam.

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.67 of 2020 filed by the Respondent is ordered to be withdrawn from the file of Principal Subordinate Court, Virudhachalam and transferred to the file of the IV Additional Family Court, Chennai to be tried along with H.M.O.P.No.1794 of 2020, which is filed by the petitioner/wife. The learned Judge, Principal Subordinate Court, Virudhachalam is directed to transmit all the records pertaining to H.M.O.P.No.67 of 2020 to the file of the IV 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(CCC)

//True Copy//

Sub Assistant Registrar

vkrr

To

1.The Principal Subordinate Judge, Virudhachalam.

2.The Judge, IV Additional Family Court, Chennai.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1 cc to Mr.S.Elavarasan, Advocate Sr.NO. 40217

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MG(CO)

A.SK(12/07/2022)