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Tr.C.M.P.No.365 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Tr.C.M.P. No.365 of 2022
and C.M.P.No.6885 of 2022

S.Deepika

... Petitioner

..Vs..

S.Ravi Varma

... Respondent

Prayer:- Petition is filed under Section 24 of the Civil Procedure Code to withdraw the HMOP.No.150 of 2022 on the file of the Learned Family Court Judge in Salem and to transfer the same to the file of Learned Principal Family Court at Chennai or any other Family Court at Chennai District.

For Petitioner : Mr.M.Rajasekar
For Respondent : Mr.K.Moorthy

ORDER

This petition is filed to withdraw HMOP.No.150 of 2022 on the file of the learned Family Court Judge, Salem and to transfer the same to the file of the Principal Family Court, Chennai.

2.Heard the learned counsel for the petitioner as well as the learned



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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 09.03.2017. Since, the relationship between the couples went bitter, the Respondent/Husband filed HMOP.No.150 of 2022 pending on the file of the learned Judge, Family Court, Salem, against the petitioner seeking divorce. Now, the petitioner herein who is the wife has preferred the present petition to withdraw HMOP.No.150 of 2022 on the file of the learned Family Court Judge, Salem and transfer the same to the file of the learned Judge, Principal Family Court, Chennai.

4. The petitioner has stated that she is employed at Chennai and taking care of her 3 ½ years old son without any help and it is very difficult for her to travel from Chennai to Salem for attending the Court proceedings at Salem.



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5. Since the respondent is employed at USA and he is unable to attend the Court in person, he is at liberty to file a petition to appear through his Power of Attorney before the trial Court. At the time of petition being filed, the learned trial Judge is directed to consider the same and pass orders.

6. 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]**. 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



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that the prayer of the petitioner should be considered favourably.

7. Accordingly, the Transfer Civil Miscellaneous Petition is **allowed**.

The petition in HMOP.No.150 of 2022 filed by the respondent is ordered to be withdrawn from the file of the learned Family Court Judge, Salem and is transferred to the file of the Principal Family Court, Chennai. The learned Family Court Judge, Salem, is directed to transmit all the records pertaining to HMOP.No.150 of 2022 to the file of the Principal 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.

30.06.2022

jrs

Index:Yes/No

Speaking Order:Yes/No

To

1. The Family Court Judge, Salem,

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2.The Judge, Principal Family Court, Chennai.

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R.N.MANJULA,J.

jrs



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