

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

TR.C.M.P.NO.450 OF 2022

AND

C.M.P.NO.8189 OF 2022

C.Priya @ Priyanka

... Petitioner

..Vs..

G.Gopalakrishnan

... Respondent

PRAYER:-

Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.93 of 2021 pending on the file of the Family Court, Sivagangai and transfer the same to the file of the III Additional Family Court, Chennai.

For Petitioner : Mr.R.Surya Prakash

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.93 of 2021 pending on the file of the Family Court, Sivagangai and transfer the same to the file of the III Additional Family Court, Chennai.

2. Heard the learned counsel for the petitioner and perused the materials available on record. The respondent, though served, has not entered appearance either in person or through counsel.

3. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 19.06.2013 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.93 of 2021 on the file of

the Family Court, Sivagangai, 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.93 of 2021 on the file of the Family Court, Sivagangai and transfer the same to the file of the learned III Additional Judge, Family Court, Chennai.

4. The petitioner has stated that she is staying with her minor child and aged parents and it is very difficult for her to travel from Chennai to Sivagangai for attending the Court proceedings at Sivagangai.

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.93 of 2021 filed by the Respondent is ordered to be withdrawn from the file of Family Court, Sivagangai and transferred to the file of the III Additional Family Court, Chennai. The learned Judge, Family Court, Sivagangai, is directed to transmit all the records pertaining to H.M.O.P.No.93 of 2021 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(CO)

//True Copy//

Sub Assistant Registrar

vkrr

To

1. The Judge,
The Family Court,
Sivagangai.
2. The Judge,
The III Additional Family Court,
Chenani.

Copy To:-

The Section Officer,
V.R. Section,
High Court, Madras.

TR.C.M.P.NO.450 OF 2022 AND
C.M.P.NO.8189 OF 2022

MG(CO)
PBS/11/07/2022