

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

TR.C.M.P.NO.376 OF 2022

AND

C.M.P.NO.7246 OF 2022

P.Arokia Ahino Jessie

... Petitioner

..Vs..

Dr.S.Prasath Xavier

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.33 of 2022 pending on the file of the Principal District Judge, Thiruppur and transfer the same to the Family Court, Chennai.

For Petitioner	: Mr.R.Nalliyappan
For Respondent	: Mr.T.Senthilkumar
	for M.Sivavarthanan

O R D E R

This petition is filed to withdraw I.D.O.P.No.33 of 2022 pending on the file of the Principal District Judge, Thiruppur and transfer the same to the Family Court, Chennai.

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 20.05.2009. Since, the relationship between the couples went bitter, the Respondent/Husband filed I.D.O.P.No.33 of 2022 pending on the file of the learned Principal District Judge, Thiruppur against the petitioner seeking divorce. Now, the petitioner herein who is the wife has preferred the present petition to withdraw I.D.O.P.No.33 of 2022 on the file of the learned Principal District Judge, Thiruppur and transfer the same to the file of the learned Judge, Family Court, Chennai.

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

5. The learned counsel for the respondent submitted that the respondent is a surgeon and he is unable to attend the Court proceeding and hence, liberty may be given to file a petition to make his appearance through his counsel.

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]. 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.

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

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in I.D.O.P.No.33 of 2022 filed by the Respondent is ordered to be withdrawn from the file of Principal District Court, Thiruppur and transferred to the file of the Family Court, Chennai. The learned Principal District Judge, Thiruppur, is directed to transmit all the records pertaining to I.D.O.P.No.33 of 2022 to the file of the 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(CS-IV)

//True Copy//

Sub Assistant Registrar

vkr

To

1. The Principal District Judge,
Thiruppur.

2. The Judge,
Family Court, Chennai.

+1cc to M/s.R.Nalliyappan, Advocate, S.R.No.39248

Tr.C.M.P.No.376 of 2022
and C.M.P.No.7246 of 2022

BR(CO)
RLP(15/07/2022)