

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tr.C.M.P. No.423 of 2022
and C.M.P. No.7904 of 2022

Samundeeswari

... Petitioner

versus

Mohanraj

... Respondent

PRAYER: Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.166 of 2021 pending on the file of the learned Subordinate Judge, Bhavani and transfer the same to the Family Court, Erode or any other court of competent jurisdiction by appreciating the above said facts and circumstances of the case.

For Petitioner : Mr.J.Ranjith Kumar

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.166 of 2021 from the file of the learned Subordinate Judge, Bhavani and transfer the same to the file of the Family Court, Erode.

2. Heard the learned counsel for the petitioner and perused the materials available on record. Though the notice was served on the respondent and his name printed in the cause list, 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 01.11.2017 as per Hindu Rites and Customs. Since the relationship between the couples went bitter, the respondent/husband filed H.M.O.P.No.166 of 2021 on the file of the learned Subordinate Judge, Bhavani, 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.166 of 2021 pending on the file of the learned Subordinate Judge, Bhavani and transfer the same to the file of Family Court, Erode.

4. The petitioner has stated that she is staying with her parents and that apart she has to take care of her one year old child and therefore, she is not in a position to accompany her to Bhavani to attend Court proceedings.

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 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 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, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.166 of 2021 filed by the respondent is ordered to be withdrawn from the file of the learned Subordinate Judge, Bhavani and transferred to the file of Family Court, Erode. The learned Subordinate Judge, Bhavani is directed to transmit all the records pertaining to H.M.O.P.No.166 of 2021 to the file of the Family Court, Erode, within a period of two weeks from the date of receipt of a copy of this order. However, there is no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

sri

To

1.The Subordinate Judge, Bhavani.

2.The Family Court, Erode.

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SKM(CO)
GMY(20/07/2022)