

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.414 of 2022
and
C.M.P.No.7653 of 2022

R.Nithya ... Petitioner
..Vs..

S.Sathish ... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.21 of 2022, pending on the file of the Subordinate Court, Vaniyambadi and transfer the same to the file of the III Additional Family Court, Chennai to be jointly tried with H.M.O.P.No.2318 of 2021.

For Petitioner : Mr.V.M.Venkataramana

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P.No.21 of 2022, pending on the file of the Subordinate Court, Vaniyambadi and transfer the same to the file of the III Additional Family Court, Chennai to be tried along with H.M.O.P.No.2318 of 2021.

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 30.10.2020 as per Hindu Rites and Customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.21 of 2022, on the file of the Subordinate Court, Vaniyambadi, 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.21 of 2022 pending on the file of Subordinate Court, Vaniyambadi and

transfer the same to the file of the learned III Additional Judge, Family Court, Chennai to be tried along with H.M.O.P.No.2318 of 2021, which is filed by the petitioner/wife.

4. The petitioner has stated that now she is residing with her aged parents and 8 months old girl baby and it is very difficult for her to travel from Chennai to vaniyambadi, for attending the Court proceedings at Vaniyambadi.

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.21 of 2022 filed by the Respondent is ordered to be withdrawn from the file of Subordinate Court, Vaniyambadi and transferred to the file of the learned III Additional Judge, Family Court, Chennai, to be tried along with H.M.O.P.No.2318 of 2021, which is filed by the petitioner/wife. The learned Judge, Subordinate Court, Vaniyambadi, is directed to transmit all the records pertaining to H.M.O.P.No.21 of 2022 to the file of the learned III Additional Judge, 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-VIII)

//True Copy//

vkrr

Sub Assistant Registrar

To

1. The Judge,
Subordinate Court,
Vaniyambadi.
2. The III Additional Judge,
Family Court, Chennai.

+1cc to Mr.V.M.Venkatramana, Advocate, S.R.No.39435

Tr.C.M.P. No.414 of 2022 and
C.M.P.No.7653 of 2022

AK-II (CO)
UMA(12/07/2022)