



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.445 of 2022
and C.M.P. No.8135 of 2022

G.Hemalatha

...

Petitioner

versus

K.Muthukrishnan

...

Respondent

PRAYER: Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw F.C.O.P.No.265 of 2019 on the file of the Family Court, Salem and transfer the same to the Sub Court, Gobichettipalayam, Erode District.

For Petitioner : Mr.C.S.Saravanan

For Respondent : No Appearance

ORDER

This petition is filed to withdraw F.C.O.P.No.265 of 2019 from the file of the Family Court, Salem and transfer the same to the file of the Sub Court, Gobichettipalayam, Erode District.



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 16.07.2018 as per Hindu Rites and Customs. Since the relationship between the couples went bitter, the respondent/husband filed F.C.O.P.No.265 of 2019 on the file of the Family Court, Salem, against the petitioner for restitution of conjugal rights. Now, the petitioner herein, who is the wife has preferred the present petition to withdraw F.C.O.P.No.265 of 2019 pending on the file of the Family Court, Salem and transfer the same to the file of Sub Court, Gobichettipalayam, Erode District.

4. The petitioner is said to be staying with her aged parents and it is very difficult for her to travel from Gobichettipalayam to Salem



covering a distance of 200 Kms for attending the Court proceedings at Salem.

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 F.C.O.P.No.265 of 2019 filed by the respondent is ordered to be withdrawn from the file of the Family Court, Salem and



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transferred to the file of Sub Court, Gobichettipalayam, Erode District. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to F.C.O.P.No.265 of 2019 to the file of the Sub Court, Gobichettipalayam, Erode District, 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.

28.06.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

To

1.The Family Court,
Salem.

2.The Sub Court,
Gobichettipalayam,
Erode District



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R.N.MANJULA, J.

sri

Tr.C.M.P. No.445 of 2022
and C.M.P. No.8135 of 2022

28.06.2022