

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Tr.C.M.P. No.451 of 2022
and C.M.P. Nos.8195 & 8196 of 2022

R.Abirami ... Petitioner

versus

Dr.S.Singaravadivel ... Respondent

PRAYER: Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.29 of 2022 on the file of the Family Court, Dindigul and transfer the same to the II Additional Family Court, Chennai.

For Petitioner: Mr.M.Leon Raymont

For Respondent: Mr.R.Alwin Manoj Raj

O R D E R

This petition is filed to withdraw H.M.O.P.No.29 of 2022 from the file of the Family Court, Dindigul and transfer the same to the file of the II Additional Family Court, Chennai.

2. Heard the learned counsel for the petitioner as well as learned counsel appearing for the respondent.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 10.02.2014 as per Hindu Rites and Customs. Since the relationship between the couples went bitter, the respondent/husband filed H.M.O.P.No.29 of 2022 on the file of the Family Court, Dindigul, 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.29 of 2022 pending on the file of the Family Court, Dindigul and to transfer the same to the file of II Additional Family Court, Chennai.

4.The petitioner is said to be staying with her brother and she has to take care of her 6 years old female child and hence, it is very difficult for her to travel from Chennai to Dindigul by covering a distance of 421 Kms for attending the Court proceedings at Dindigul.

5.The learned counsel appearing for the respondent submitted that the respondent has got serious health issues and because of his ailments, it may not be possible for him to travel from Dindigul to Chennai.

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 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.

7.Accordingly, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.29 of 2022 filed by the respondent is ordered to be withdrawn from the file of the Family Court, Dindigul and transferred to the file of II Additional Family Court, Chennai. The learned Judge, Family Court, Dindigul is directed to transmit all the records pertaining to H.M.O.P.No.29 of 2022 to the file of the II Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. Even if the case is transferred from the file of the Family Court, Dindigul, the respondent is at liberty to file an appropriate application before the II Additional Family Court, Chennai for dispensing his appearance whenever it is not necessary. However, there is no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

sri

To

1.The Family Court, Dindigul.

2.The II Additional Family Court, Chennai.

+1cc to Mr.R.Surya Prakash, Advocate SR.No.41677

+1cc to Mr.R.Alwin Manoj Raj, Advocate SR.No.41314

Tr.C.M.P. No.451 of 2022
and C.M.P. Nos.8195 & 8196 of 2022

CB(11/07/2022)