



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

TR.C.M.P.NO.433 OF 2022

AND

C.M.P.NO.8002 OF 2022

V.Mahalakshmi

... Petitioner

Vs.

D.Vigneswaran

... Respondent

Prayer:-

Petition has been filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.21 of 2021 pending on the file of the Family Court at Thanjavur, Thanjavur District and transfer the same to the Sub-Court, Thirupathur, Thirupathur District.

For Petitioner : Mr.M.Sathish Kumar
For Respondent : No Appearance

O R D E R

This petition has been preferred to withdraw H.M.O.P.No.21 of 2021 pending on the file of the Family Court, Thanjavur, Thanjavur District and transfer the same to the file of the Sub Court, Thirupathur, Thirupathur District.

2.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is 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 09.11.2016 as per Hindu rites and customs. Since the relationship between the couple went bitter, the Respondent/Husband filed H.M.O.P.No.21 of 2021 on the file of the Family Court, Thanjavur, Thanjavur District, 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 2021 pending on the file of the Family Court,



Thanjavur, Thanjavur District and transfer the same to the file of the Sub Court, Thirupathur, Thirupathur District.

4. The petitioner has stated that she is staying with her parents along with her minor child and it is very difficult for her to travel along with her minor child from Thirupathur to Thanjavur covering the distance of 300 kms for attending the Court proceedings at Thanjavur.

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, 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]. In fact 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 2021 filed by the respondent/husband is ordered to be withdrawn from the file of the Family Court, Thanjavur, Thanjavur District and transferred to the file of the Sub Court, Thirupathur, Thirupathur District. The learned Judge, Family Court, Thanjavur, Thanjavur District is directed to transmit all the records pertaining to H.M.O.P.No.21 of 2021 to the file of the Sub Court, Thirupathur, Thirupathur District, 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 II)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge,
Family Court,
Thanjavur, Thanjavur District.

2. The Judge,
Sub-Court,
Thirupathur,
Thirupathur District.

+1cc to Mr.M.Sathish Kumar, Advocate, S.R.No.38047

Tr.C.M.P.No.433 of 2022
and
C.M.P.No.8002 of 2022

JPII (CO)
PM/07/07/2022