

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.436 OF 2022

AND

C.M.P.NO.8018 OF 2022

Abinaya

... Petitioner

.Vs.

Soundarajan

... Respondent

PRAYER:-

The Memorandum of Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw and transfer O.P.No.294 of 2022 pending on the file of the III Additional Family Court at Chennai to be tried along with F.C.O.P.No.405 of 2021 pending before the Family Court, Chengalpattu.

For Petitioner : Mr.M.Muthappan

For Respondent : No appearance

ORDER

The petition has been preferred to withdraw and transfer O.P.No.294 of 2022 pending on the file of the III Additional Family Court at Chennai to be tried along with F.C.O.P.No.405 of 2021 pending before the Family Court, Chengalpattu.

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 is printed in the cause list, there is no representation on behalf of the respondent today.

3. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 17.02.2019 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the petitioner/wife filed FCOP.No.405 of 2021 on the file of the

Family Court, Chengalpattu seeking for dissolution of marriage. Thereafter the Respondent/Husband filed O.P.No.294 of 2022 on the file of the III Additional Family Court at Chennai, against the petitioner seeking divorce. Now, the petitioner herein who is the wife has preferred the present petition to withdraw O.P.No.294 of 2022, which is filed by the respondent/husband on the file of the III Additional Family Court at Chennai and transfer the same to the file of the learned Judge, Family Court, Chengalpattu to be tried along with F.C.O.P.No.405 of 2021, which is filed by the petitioner / wife.

4. The petitioner has stated that she is staying with her aged parents and it is very difficult for her to travel from Chengalpattu to Chennai for attending the Court proceedings at Chennai.

5. It is needless to say that in the matrimonial proceedings, preference should be given to the convenience of the wife. The said position has been settled in various judgements of the Hon'ble Supreme Court and more particularly in the Judgement 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 O.P.No.294 of 2022 filed by the Respondent is ordered to be withdrawn from the file of the III Additional Family Court at Chennai and transferred to the file of the Family Court, Chengalpattu to be tried along with F.C.O.P.No.405 of 2021, which is filed by the petitioner/wife. The learned III Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to O.P.No.294 of 2022 to the file of the Family Court, Chengalpattu, 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(CCC)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Judge,
The III Additional Family Court,
Chennai.
2. The Judge,
The Family Court,
Chengalpattu.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.39400

TR.C.M.P.NO.436 OF 2022 AND
C.M.P.NO.8018 OF 2022

GPL(CO)
PBS/19/07/2022