

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.446 of 2022
and C.M.P.No.8136 of 2022

S.Dhivya ...Petitioner/ Respondent

..Vs..

P.Selvamuthu Kumar ...Respondent/ Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the O.P.No.4041 of 2021 from the file of the V Additional Family Court, Chennai and transfer the same to the Family Court, Madurai.

For Petitioner : M/s.A.Arulmozhi

For Respondent : Mr.S.Manimaran

O R D E R

This petition is filed to withdraw the O.P.No.4041 of 2021 from the file of the V Additional Family Court, Chennai and transfer the same to the Family Court, Madurai.

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, today.

3. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 23.08.2018. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.O.P.No.4041 of 2021 pending on the file of the V Additional Family Court, Chennai 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.4041 of 2021 on the file of the V Additional Family Court, Chennai and transfer the same to the file of the learned Judge, Family Court, Madurai.

4. The petitioner has stated that she is staying with her aged parents and her 2 ½ year old child and it is very

difficult for her to travel from Madurai to Chennai for attending the Court proceedings at Chennai.

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.4041 of 2021 filed by the Respondent is ordered to be withdrawn from the file of V Additional Family Court, Chennai and is transferred to the file of the Family Court, Madurai. The learned Judge, V Additional Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.4041 of 2021 to the file of the Family Court, Madurai, 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-IV)

//True Copy//

Sub Assistant Registrar

jrs

To

1.The V Additional Judge, Family Court, Chennai.

2.The Judge/ Presiding Officer,
Family Court, Madurai.

+1cc to M/s.A.Arulmozhi, Advocate SR. No. 39385

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SRR (CO)
PR (13/07/2022)