

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.457 of 2022
and C.M.P. No.8274 of 2022

R.Geetha

... Petitioner

versus

R.Saravanan

... Respondent

PRAYER: Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.146 of 2022 pending on the file of the Family Court, Tiruchirappalli and transfer the same to the Additional Family Court, Coimbatore to be tried along with H.M.O.P.No.70 of 2022 pending on its file of the Additional Family Court.

For Petitioner : Mr.A.Tamilarasan

For Respondent : Mr.R.Arunmozhi

O R D E R

This petition is filed to withdraw H.M.O.P.No.146 of 2022 pending on the file of the Family Court, Tiruchirappalli and transfer the same to the Additional Family Court, Coimbatore to be tried along with H.M.O.P.No.70 of 2022.

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 08.01.2009 as per Hindu Rites and Customs. Since, the relationship between the couples went strained, the respondent/husband filed H.M.O.P.No.146 of 2022 on the file of the Family Court, Tiruchirappalli, against the petitioner for restitution of conjugal rights. Now, the petitioner herein who is the wife has preferred the present petition to withdraw H.M.O.P.No.146 of 2022 on the file of the Family Court, Tiruchirappalli and transfer the same to the file of the

Additional Family Court, Coimbatore to be tried along with H.M.O.P.No.70 of 2022, which is filed by the petitioner/wife.

4. The petitioner is said to be staying with her parents and that apart she has to take care of her 13 years old female child and it is very difficult for her to travel from Coimbatore to Tiruchirappalli covering a distance of 250 Kms for attending the Court proceedings at Tiruchirappalli.

5. The learned counsel appearing for the respondent submitted that this petition for transfer has been filed only to drag on the proceedings and prayed for dismissal of the transfer petition.

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.146 of 2022 filed by the respondent is ordered to be withdrawn from the file of Family Court, Tiruchirappalli and transferred to the file of the Additional Family Court, Coimbatore to be tried along with H.M.O.P.No.70 of 2022, which is filed by the petitioner/wife. The learned Judge, Family Court, Tiruchirappalli, is directed to transmit all the records pertaining to H.M.O.P.No.146 of 2022 to the file of the Additional Family Court, Coimbatore, 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.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

sri

To

1.The Family Court, Tiruchirappalli.

2.The Additional Family Court, Coimbatore.

+1cc to Mr.A.Tamilarasan, Advocate SR.No.41147

+1cc to Mr.R.Arunmozhi, Advocate SR.No.41633

Tr.C.M.P. No.457 of 2022
and C.M.P. No.8274 of 2022

SKM(CO)
GMY(20/07/2022)