



Tr.C.M.P.No.907 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE J.NISHA BANU,J.

Tr.C.M.P. No.907 of 2019 and
C.M.P.Nos.24795 and 27377 of 2019

S.Kalimabegam

... Petitioner

..Vs..

Dr.Syed Saleemjaveed

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the O.S.No.288 of 2019 on the file of the II Family Court, Chennai and to transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.V.Anandhamurthy

For Respondent : No appearance



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ORDER

This petition has been filed to withdraw the proceedings in O.S.No.288 of 2019 on the file of the II Family Court, Chennai and to transfer the same to the Family Court, Coimbatore.

2. There is no representation for the respondent. Heard the learned counsel for the petitioner and perused the materials available on record.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 30.04.2006 at SKR Bharathi Mahal, Podanur, Coimbatore as per Muslim rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed Suit in O.S.No.288 of 2019 for declaration, pending on the file of the II Family Court, Chennai against the petitioner. Now, the petitioner

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herein who is the wife has preferred the present petition to withdraw O.S.No.288 of 2019, pending on the file of the II Family Court, Chennai and transfer the same to the file of the Family Court, Coimbatore.

4. The petitioner has stated that she is staying with her widow mother in Coimbatore and it is very difficult for the petitioner to travel from Coimbatore 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. It is settled position of law that while considering the question of transfer of matrimonial proceedings, regard must be had to the convenience of the wife. The observations of the Supreme Court in *Neelam Kanwar's case* [[Neelam Kanwar v. Davinder Singh Kanwar](#), 2001(1) M.L.J. 509



(S.C.);] are being noticed as under:

"We are mindful of the fact that the petitioner is a lady and first respondent is a male, and, therefore, (for) convenience of wife, a transfer to the place where the lady is residing, would be preferred by this Court unless, it is shown that there are special reasons not to do so. No special reason is shown."

6. The said proposition 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]**. Having regard to the observations of the Apex Court in the above cases and in the facts of this case which have neither been denied or controverted by the respondent, the petition deserves to be accepted. Infact the wife is guarded with the right to file proceedings in the place where she resides.



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6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The suit in O.S.No.288 of 2019 filed by the Respondent is ordered to be withdrawn from the file of the II Family Court, Chennai and transferred to the file of the Family Court, Coimbatore. The learned Judge, II Family Court, Chennai, is directed to transmit all the records pertaining to O.S.No.288 of 2019 to the file of the Family Court, Coimbatore within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index:Yes/No
Speaking Order:Yes/No
Jer/nvsri

To

1.The Judge, II Family Court, Chennai.

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2.The Judge, Family Court, Coimbatore.



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