



Tr.C.M.P.No.466 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Tr.C.M.P. No.466 of 2023
and C.M.P.No.10701 of 2023

G. Baby Sowmya

... Petitioner

..Vs..

M. Thangaraj

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.127 of 2022 on the file of Family Court, Salem and transfer the same to the Sub Court at Bhavani, Erode District.

For Petitioner : Mr.S.Sivakumar

For Respondent : Addressee cannot be located



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ORDER

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This petition is filed to withdraw H.M.O.P.No.127 of 2022 from the file of Family Court, Salem and transfer the same to the Sub Court at Bhavani, Erode district.

2. Heard the learned counsel for the petitioner and perused the materials available on record. The respondent, though served, has not entered appearance either in person or through counsel.

3. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 19.01.2017 as per Hindu rites and customs. Since, the relationship between the couples went bitter, the Respondent/Husband filed H.M.OP.No.127 of 2022 on the file of the Family Court, Salem, against the Petitioner seeking restitution of conjugal rights. Now, the Petitioner herein who is the wife has preferred the present petition to withdraw H.M.O.P.No.127 of 2022 pending on the file of Family Court, Salem and transfer the same to the file of Sub Court at Bhavani, Erode.



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4. The Petitioner has stated that she is staying with her aged parents and she has no source of income and having five years old boy baby and hence it is very difficult for her to travel from her native place to Salem to attend the Court proceedings.

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 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.



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6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.127 of 2022 filed by the Respondent is ordered to be withdrawn from the file of Family Court, Salem and transferred to the file of Sub Court, at Bhavani, Erode District. The learned Judge, Family Court, Salem is directed to transmit all the records pertaining to H.M.O.P.No.127 of 2022 to the file of the Sub Court at Bhavani, Erode 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.

08.11.2023

dpq

Index:Yes/No

Speaking Order: Yes/No

To

1.The Family Court, Salem

2.The Sub Court at Bhavani, Erode District.

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T.V. THAMIL SELVI, J.

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