

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

Tr. C.M.P No.263 of 2017
& C.M.P.No.4861 of 2017

J.Divya Bharathy

... Petitioner

Vs.

S.Vimal

... Respondent

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw O.P.No.585 of 2017 on the file of the I-Additional Family Court, Chennai and transfer the same to Family Court, Coimbatore.

For Petitioner : Mr.K.S.Karthik Raja

For Respondent : Mr.S.B.Viswanathan

O R D E R

This petition is filed to withdraw O.P.No.585 of 2017 on the file of the I-Additional Family Court, Chennai and transfer the same to Family Court, Coimbatore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 14.02.2016 as per Hindu rites and customs. Due to difference of opinion, the petitioner and the respondent are living separately. The petitioner filed DVA No.42 of 2016 before the Judicial Magistrate No.VII, Coimbatore under Domestic Violence Act and the same is pending. The respondent filed O.P.No.585 of 2017 before I Additional Family Court, Chennai for declaration of the marriage as null and void, only to harass the petitioner.

3. According to the petitioner, she is residing at Coimbatore alongwith her parents. The distance between Coimbatore and Chennai is more than 500 kms. and being a heart patient, it is very difficult for her to attend each and every hearing before the Family Court, Chennai along with her aged parents. She is not having any independent income and is depending on her aged parents for her day-to-day expenses,

including the travelling expenses. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition.

4. Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

5. The learned counsel for the respondent filed counter and seriously objected for transfer of the petition from Family Court, Chennai to Family Court, Coimbatore stating that the father of the respondent is taking treatment for prostate cancer and he has to attend his father. Hence, it would be very difficult for him to attend each and every hearing before Family Court, Coimbatore.

6. It is well settled law whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in O.P.No.585 of 2017 pending on the file of I-Additional Family Court, Chennai to Family Court, Coimbatore.

7. Considering the facts and circumstances of the present case and having satisfied with the reasons given in the affidavit filed in support of the petition, without deciding the issue on merits, the petition in O.P.No.585 of 2017 is ordered to be withdrawn from the file of Family Court, Chennai and transferred to the file of Family Court, Coimbatore. The Presiding Officer, Family Court, Chennai is directed to transmit all the records pertaining to O.P.No.585 of 2017 to the file of Family Court, Coimbatore within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rgr

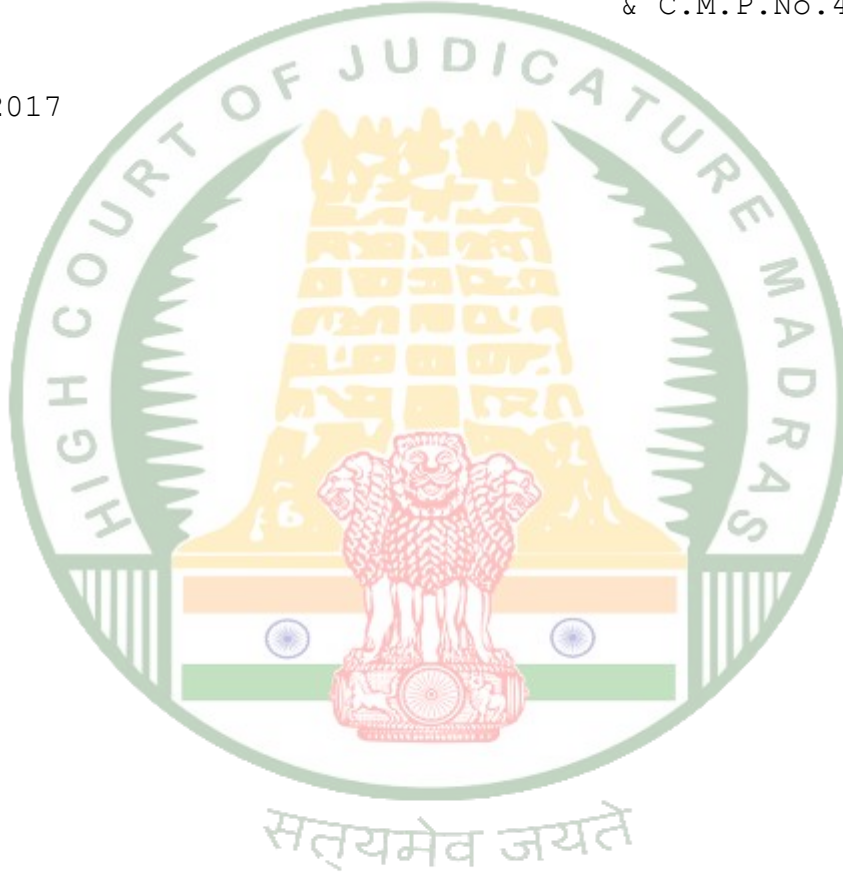
To

1. The I-Additional Judge Family Court,
Chennai.
2. The Family Judge Court,
Coimbatore.

+1cc to Mr.K.S.Karthik Raja, Advocate in sr.no.45345
+1cc to Mr.S.B.Viswanathan, Advocate in sr.no.45232

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KS (CO)
NR 13/07/2017



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