

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.733 of 2016
and CMP.No.18952 of 2016

K.Premalatha

... Petitioner

Vs.

B.Gurusamy

... Respondent

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.168 of 2016 pending on the file of the Sub Court, Kovilpatti and transfer the same to the Sub Court, Gobichettipalayam.

For Petitioner : Mr.S.Kumaradevan
For Respondent : Ms.S.Sakila Banu

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P. No. 168 of 2016 on the file of the Sub Court, Kovilpatti and transfer the same to the Sub Court, Gobichettipalayam.

2. The petitioner is the wife and respondent is the husband. It is the case of the petitioner that the marriage between the petitioner and respondent was conducted on 02.11.2014 as per Hindu rites and customs. In the wedlock, a female child was born on 23.01.2016. The respondent and his family members used to pick up quarrel with the petitioner on the ground that she had given birth to a female child. The petitioner was then thrown out of the matrimonial home along with her minor child. The petitioner left no other option, is now staying with her child in her parent's house at Gobichettipalayam, Erode. The respondent filed H.M.O.P. No.168 of 2016 before the Sub Court, Kovilpatti for restitution of conjugal rights.

3. According to the petitioner, the respondent has filed this petition for restitution, only in order to escape from the complaint made against the respondent and his family members before the police by the petitioner's family. The learned counsel for the petitioner has brought to the notice of this

Court that the petitioner has filed a petition in M.C.No.6 of 2016 on the file of the Judicial Magistrate No.II, Gobichettipalayam seeking maintenance for herself and her minor female child. The petitioner is stated to be a permanent resident of Nambiyur, Gobichettipalayam Taluk, Erode District. The distance between Nambiyur Town, Erode District and Kovilpatti is more than 331 kilometers and therefore it is difficult for the petitioner to travel such a long distance along with the minor child to attend the Court proceedings in HMOP. Under the said circumstances, the petitioner has come out with the present transfer petition praying to withdraw the proceedings in H.M.O.P. No. 168 of 2016 on the file of the Sub Court, Kovilpatti and transfer the same to the Sub Court, Gobichettipalayam.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

5. It is well settled law that 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].

6. Having regard to the submissions made by the learned counsel for the petitioner and by relying on the above decision, the petition in H.M.O.P. No.168 of 2016 is ordered to be withdrawn from the file of Sub Court, Kovilpatti and transferred to the file of Sub Court, Gobichettipalayam. The Subordinate Court, Kovilpatti, is directed to transmit all the records pertaining to H.M.O.P.No.168 of 2016 to the file of Sub Court, Gobichettipalayam, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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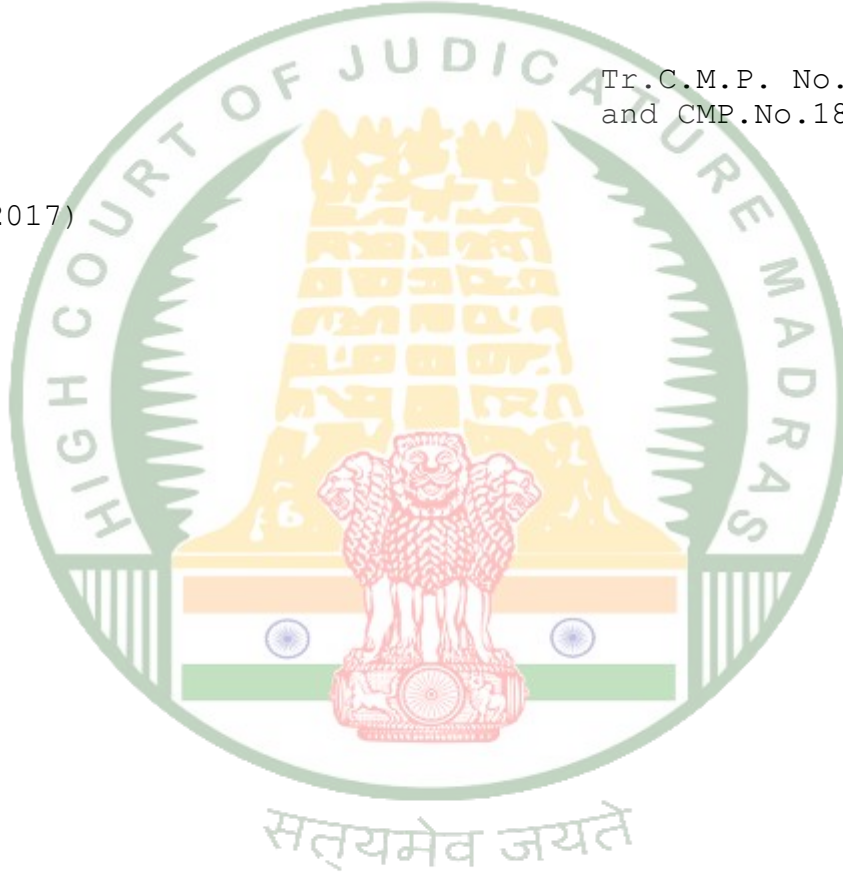
1. The Sub-Court,
Kovilpatti.
2. The Sub Court,
Gobichettipalayam.

+lcc to M/S.Sakila Banu, Advocate Sr. 41090

+lcc to M/S.S.Kumaradevan, Advocate Sr. 40843

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