

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.217 of 2014
and M.P.No.1 of 2014

R.Rajeswari

... Petitioner

Vs.

Madhiprakash @ Ramanujam

... Respondent

Prayer: Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.31 of 2014 pending on the file of the Principal Subordinate Court, Aruppukotai and transfer the same to the file of III Additional Family Court, Chennai.

For Petitioner : Mr.S.Ramajayam

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.31 of 2014 pending on the file of the Principal Subordinate Court, Aruppukotai and transfer the same to the file of III Additional Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 21.02.2011 at Srinivasa Perumal Sanathi, Koothiparai, Virudhunagar District as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Aruppukottai. In the wedlock a female child was born. The respondent treating the petitioner cruelly, thrown her out of the matrimonial house along with minor daughter. The petitioner filed H.M.O.P.No.4634 of 2012 on the file of the Family Court, Chennai for restitution of conjugal rights as well as maintenance petition before III Additional Family Court, Chennai. The respondent promised to live with the petitioner and at the instigation of the respondent, the petitioner withdrew the said case filed by her. Since the respondent did not keep up his promise, the petitioner

filed H.M.O.P.No.4744 of 2013 on the file of the Family Court, Chennai along with a maintenance petition. The respondent filed H.M.O.P.No.31 of 2014 on the file of the Principal Subordinate Court, Aruppukotai for divorce.

3. According to the petitioner, she is residing at Chennai along with her female child and she is not having any independent income and depending on her aged parents for her day-to-day expenses and for the expenses of the minor child. The distance between Aruppukotai and Chennai is more than 450 kms and it is very difficult for her to travel such a long distance to attend each and every proceedings at Aruppukotai. In the circumstances, the petitioner filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.31 of 2014 pending on the file of the Principal Subordinate Court, Aruppukotai to the file of III Additional Family Court, Chennai.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed the cause list, there is no representation for him either in person or through counsel.

5. Considering the above contention of the learned counsel for the petitioner and well settled judicial pronouncement of 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], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.31 of 2014 is ordered to be withdrawn from the file of the Principal Subordinate Court, Aruppukotai and transferred to the file of the III Additional Family Court, Chennai. The learned Principal Subordinate Judge, Aruppukotai is directed to transmit all the records pertaining to H.M.O.P.No.31 of 2014 to the file of the III Additional Family Court, Chennai, 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.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

gsa

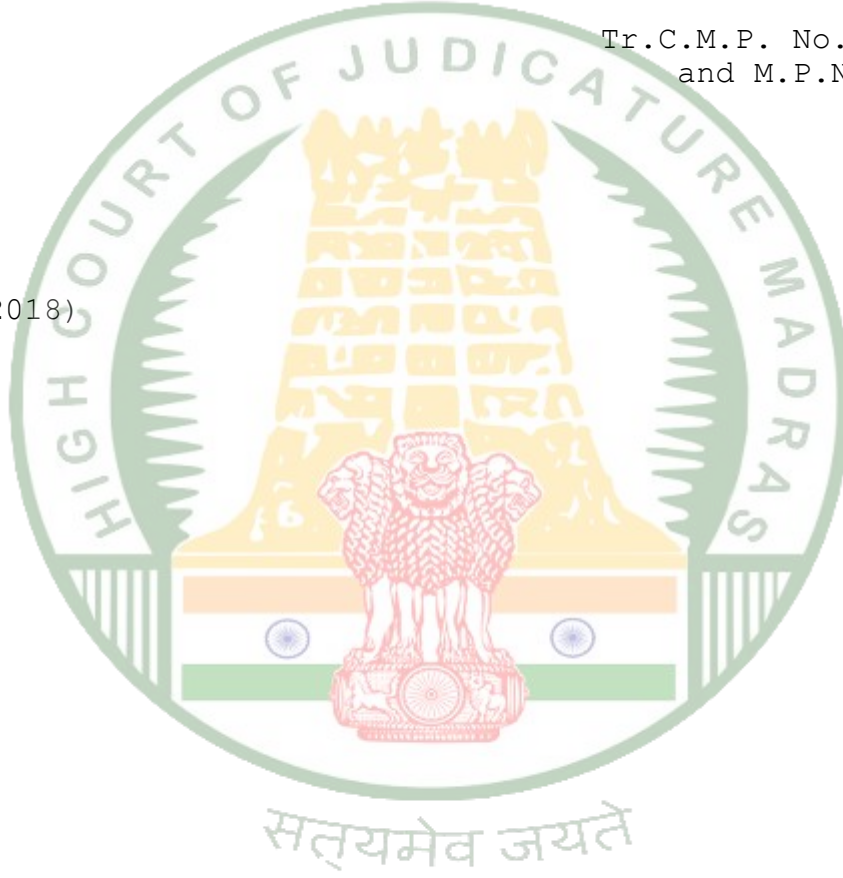
To

1.The III Additional Family Court Judge,
Chennai.

2.The Principal Subordinate Judge,
Aruppukotai.

Tr.C.M.P. No.217 of 2014
and M.P.No.1 of 2014

KAN (CO)
SP (10/05/2018)



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