

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1024 of 2017
and C.M.P.No.20858 of 2017

Anjali ... Petitioner

Vs.

Suresh Kumar ... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.29 of 2017 pending on the file of the Subordinate Court, Palakkodu and transfer the same to the file of the Subordinate Court, Cheyyar.

For Petitioner : Mr.B.Jawahar
For Respondent : Mr.M.V.Krishnan

O R D E R

This petition is filed to withdraw H.M.O.P.No.29 of 2017 pending on the file of the Subordinate Court, Palakkodu and transfer the same to the file of the Subordinate Court, Cheyyar.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.06.2016 as per Hindu rites and customs. A female child was born on 24.02.2017 in the wed lock. Due to difference of opinion between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.29 of 2017 on the file of the Subordinate Court, Palakkodu, for dissolution of marriage on the ground of desertion and cruelty making false allegations. The petitioner filed counter statement and denied all the allegations made by the respondent.

3. According to the petitioner, she is having eight months old baby and that the petitioner and her minor daughter are living with her parents at Vandavasi. All the efforts taken by the petitioner for reunion with the respondent turned futile. She is working as teacher in Vandavasi. The distance between Vandavasi and Palakkodu is more than 300 kilometres and it is very difficult for the petitioner to travel such a long distance

without any assistance from others. In the circumstances, the petitioner has come out with the present Tr.C.M.P. for transfer of H.M.O.P.No.29 of 2017 from the file of the Subordinate Court, Palakkodu to the file of the Subordinate Court, Cheyyar.

4. The learned counsel for the respondent submitted that the petitioner is a permanent resident of Palakkodu and that the respondent has given in the HMOP the Palakkodu address only and only to harass the respondent, she is seeking the transfer and she has come out with the present petition. She can very well take leave from the school and can appear before the court or else, she can engage an advocate also. Hence, he prayed for dismissal of the petition.

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

6. 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].

7. Having regard to the submissions made by the learned counsel for the petitioner and the decisions of the Hon'ble Apex Court referred to above, the petition in H.M.O.P.No.29 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Palakkodu and transferred to the file of the Subordinate Court, Cheyyar. The learned Subordinate Judge, Palakkodu, is directed to transmit all the records pertaining to H.M.O.P.No.29 of 2017 to the file of the Subordinate Court, Cheyyar, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the learned Judge, Sub Court, Cheyyar, is directed to dispose of the H.M.O.P.No.29 of 2017, as expeditiously as possible, in any event, not later than four months 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.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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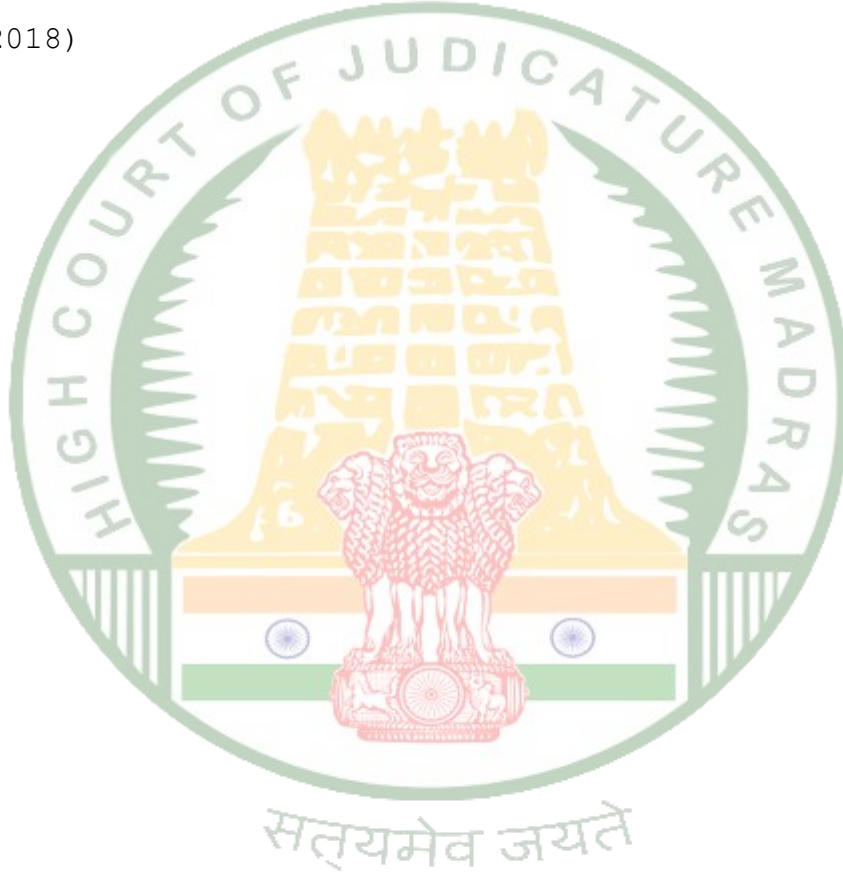
To

- 1.The Subordinate Judge, Palakkodu.
- 2.The Subordinate Judge, Cheyyar.

+1 CC to Mr.M.V. Krishnan, Advocate sr 25852.
+1 CC to Mr.B. Jawahar, Advocate sr 26861.

Tr.C.M.P. No.1024 of 2017
and C.M.P.No.20858 of 2017

AD (CO)
SP (22/05/2018)



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