

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.1028 of 2017
and C.M.P.No.20921 of 2017

G.Jeeva Sharon Celeena Petitioner

Vs.

K.Samuel ... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw IDOP No.21 of 2017 from the file of the Principal District Court at Vellore and to transfer the same to the file of the VI Additional Judge, Family Court, Court, Chennai and to try along with I.D.O.P.No.4143 of 2017 pending on its file.

For Petitioner : Mr.M.Dhivya

For Respondent : No Appearance

ORDER

This petition is filed to withdraw I.D.O.P.No.21 of 2017 pending on the file of the learned Principal District Court at Vellore

and to transfer the same to the file of VI Additional Judge, Family Court, Chennai and to try along with I.D.O.P.No.4143 of 2017 pending on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnised on 20.02.2014 at Good Shepherd Lutheran Church (IELC) Ayanavaram, Chennai. After marriage, both were living together in the matrimonial home. Subsequently, the respondent and his parents did not allow the petitioner to live in the matrimonial home by demanding further dowry and thrown her out from the matrimonial home and the respondent filed IDOP No.21 of 2017 for divorce, against the petitioner on the file of the Principal District Court, Vellore. The petitioner has filed I.D.O.P.No.4143 of 2017 for restitution of conjugal rights, before the file of the VI Additional Family Court, Chennai.

3. Learned counsel appearing for the petitioner submitted that the petitioner is residing at Chennai along with her aged parents and hence, they are unable to accompany the petitioner to travel from Chennai to Vellore to attend the proceedings in I.D.O.P.No.21

of 2017 filed by the respondent. The distance between Chennai & Vellore is more than 150km. The parents of the respondent are permanent residents of Vellore and they are politically influenced persons. They compelled the petitioner to withdraw the complaint given under Domestic Violence Act. There is every possibility of danger to her life whenever, she goes to Vellore. The respondent also is not residing at Vellore. He is residing only at Coimbatore.

4. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer I.D.O.P.No.21 of 2017 pending on the file of the Principal District Court, Vellore, to the file of the VI Additional Family Court, Chennai to try along with I.D.O.P.No.4143 of 2017 pending on its file.

5. 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 in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

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]**. Further, as per the provisions of Hindu Marriage Act, the place of residence of petitioner must be taken into account.

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 and the residence of the petitioner is at Chennai, the petition in I.D.O.P.No.21 of 2017 is ordered to be withdrawn from the file of the Principal District Court, Vellore and transferred to the file of the VI Additional Family Court, Chennai and to be tried along with I.D.O.P.No.4143 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Principal District Court, Vellore, is directed to transmit all the records pertaining to I.D.O.P.No.21 of 2017 to the file of the VI

Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

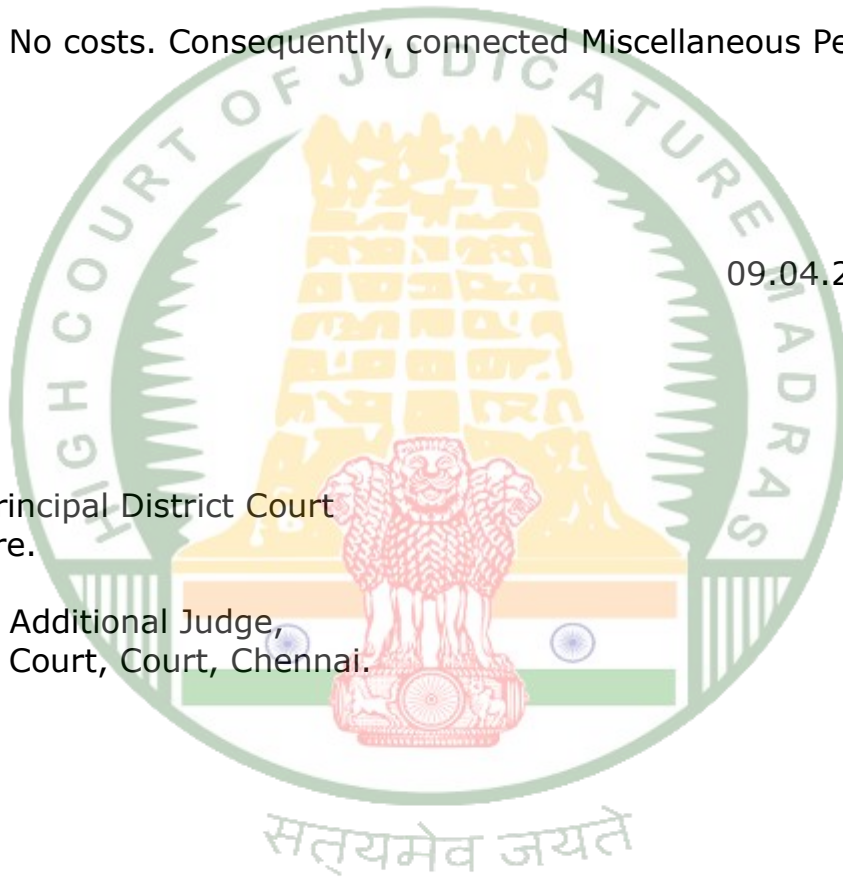
8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

09.04.2018

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To,

1. The Principal District Court
Vellore.
2. The VI Additional Judge,
Family Court, Court, Chennai.



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V.M.VELUMANI, J.

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