

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1072 of 2017

and C.M.P.No.22194 of 2017

Chandra

... Petitioner

Vs.

R.Gnanakumaran

.... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.49 of 2017 pending on the file of the Principal Subordinate Court, Maduranthakam and transfer the same to the file of the Principal Subordinate Court, Cuddalore, to try along with H.M.O.P.No.218 of 2017 pending on its file.

For Petitioner : Mr.V.Balamurugane

For Respondent : Mr.V.S.Mannarswamy

O R D E R

This petition is filed to withdraw H.M.O.P.No.49 of 2017 pending on the file of the Principal Subordinate Court, Maduranthakam and transfer the same to the file of the Principal Subordinate Court, Cuddalore, to try along with H.M.O.P.No.218 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 conducted on 23.01.2015 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home in Maduranthakam. Due to difference of opinion between the petitioner and respondent, the petitioner left the matrimonial home and she is residing with her parents. The respondent filed H.M.O.P.No.49 of 2017 on the file of the Principal Subordinate Court, Maduranthakam, for divorce on the ground of cruelty and desertion, making false allegations against the petitioner. The petitioner filed H.M.O.P.No.218 of 2017 before the Principal Subordinate Court, Cuddalore, for restitution of conjugal rights.

3. According to the petitioner, she is residing in her parents home in Cuddalore and she is working as a Teacher in a school at Cuddalore. The distance between Cuddalore and Maduranthakam is more than 100 kilometers and hence, it is very difficult for her to travel to attend the Court proceedings at Maduranthakam. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.49 of 2017 on the file of the Principal Subordinate Court, Maduranthakam to the file of the Principal Subordinate Court, Cuddalore, to try along with H.M.O.P.No.218 of 2017 pending on its file.

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

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.49 of 2017 is ordered to be withdrawn from the file of the Principal Subordinate Court, Maduranthakam and transferred to the file of the Principal Subordinate Court, Cuddalore, to be tried along with H.M.O.P.No.218 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 Subordinate Judge, Maduranthakam, is directed to transmit all the records pertaining to H.M.O.P.No.49 of 2017 to the file of the Principal Subordinate Court, Cuddalore, 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.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

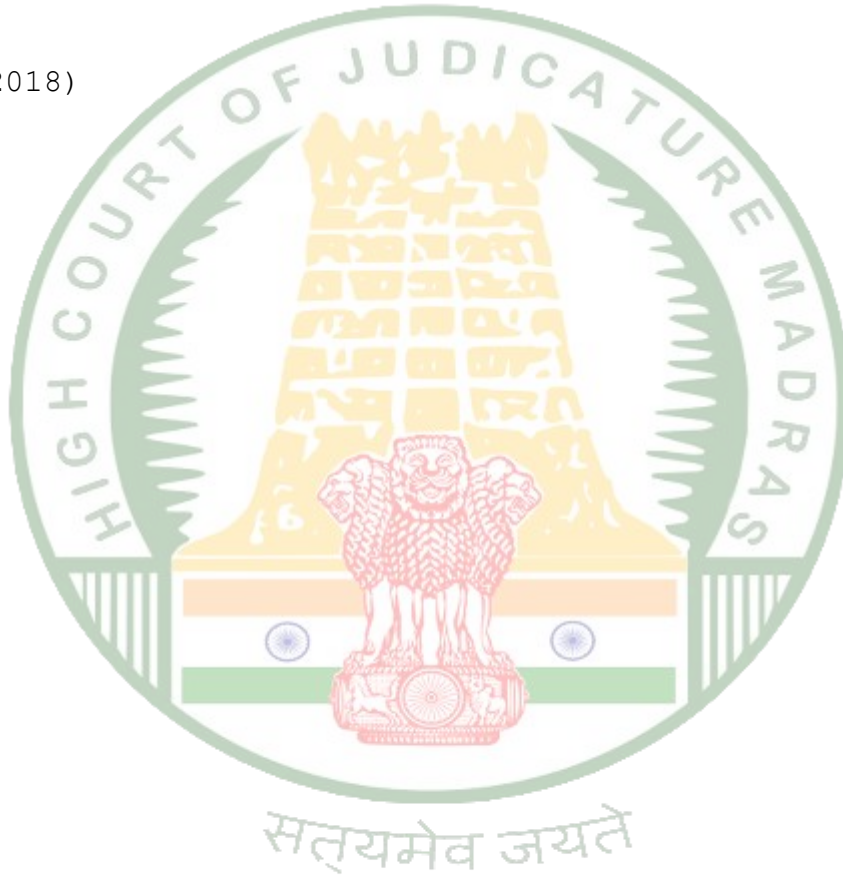
1.The Principal Subordinate Judge, Cuddalore.

2.The Principal Subordinate Judge, Maduranthakam.

+1cc to Mr.V.BALAMURUGANE, Advocate, S.R.No.28533
+1cc to Mr.V.S.MANNARSAMY, Advocate, S.R.No. 28337

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RSI (CO)
TR(10/05/2018)



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