

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.191 of 2017

and C.M.P.No.3452 of 2017

Maheswari

... Petitioner/Respondent

Vs.

K.Muthukumar

... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.116 of 2015 pending on the file of the Subordinate Court, Tiruchengode and transfer the same to the file of the Family Court, Pudukottai.

For Petitioner : Mr.R.Babu

For Respondent : M/s.T.Senthil Kumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.116 of 2015 pending on the file of the Subordinate Court, Tiruchengode and transfer the same to the file of the Family Court, Pudukottai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 22.08.2012 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Tiruchengode. In the wedlock, a male child was born in the year 2013. The respondent and his family members tortured the petitioner and thrown her out from the matrimonial home. The petitioner is residing along with minor child in Pudukottai. The respondent filed H.M.O.P.No.116 of 2015 on the file of the Subordinate Court, Tiruchengode for dissolution of marriage stating false and frivolous allegations against the petitioner.

3.According to the petitioner, she is residing at Pudukottai along with minor son. The distance between Pudukottai and Tiruchengode is more than 160 kms and being a lady, it is very difficult for her to travel such a long distance to attend each and every hearing along with minor son. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.116 of 2015 pending on the file of the Subordinate Court, Tiruchengode to the file of the Family Court, Pudukottai.

4.The learned counsel for the respondent submitted that he is running a workshop and it is very difficult for him to

attend each and every hearing before the Family Court, Pudukottai if H.M.O.P.No.116 of 2015 is transferred to Pudukottai.

5.Heard the learned counsel for the petitioner as well as the 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]. Further as per the provisions of the Hindu Marriage Act, the place of the residence of the wife 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 Pudukottai, the petition in H.M.O.P.No.116 of 2015 is ordered to be withdrawn from the file of the Subordinate Court, Tiruchengode and transferred to the file of the Family Court, Pudukottai. The learned Subordinate Judge, Tiruchengode, is directed to transmit all the records pertaining to H.M.O.P.No.116 of 2015 to the file of the Family Court, Pudukottai, within a period of two weeks from the date of receipt of a copy of this order.

8.Considering the submissions of the learned counsel for the respondent, the appearance of the respondent is dispensed with. The respondent is permitted to engage an Advocate and represent through him. He is directed to appear before Court at the time of trial and as and when directed by the learned Judge.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsa

To

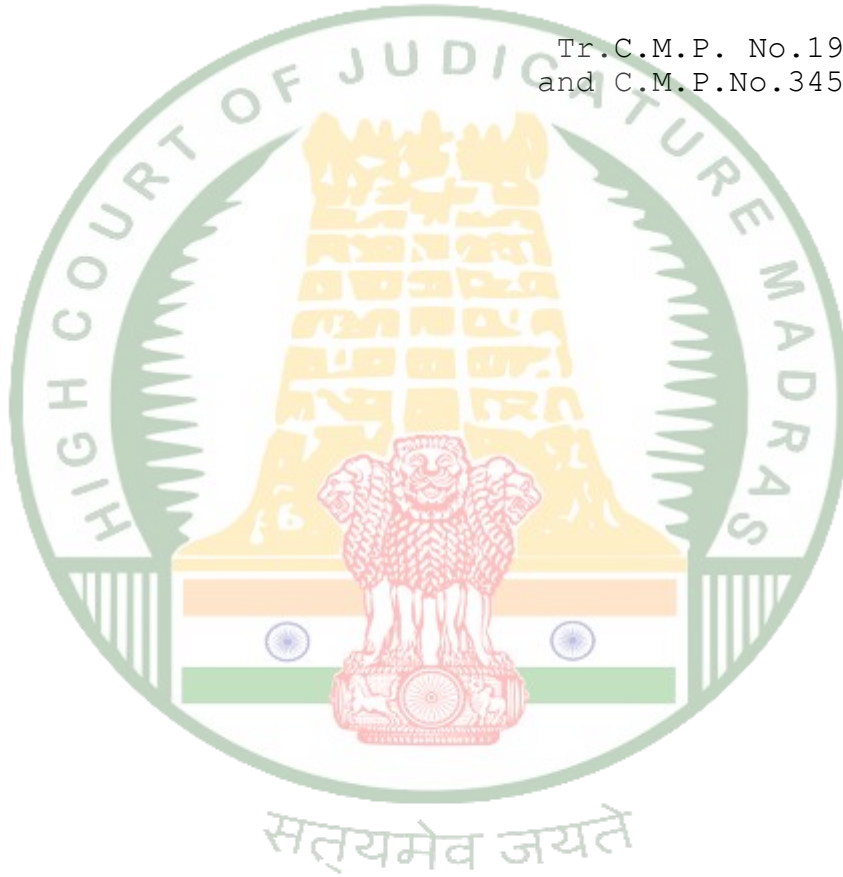
1.The Family Court Judge,
Pudukottai.

2.The Subordinate Judge,
Tiruchengode.

+1cc to Mr.B.Kumarasamy, Advocate Sr.No.27865

SR(CO)
sm:2.5.2018

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