

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.203 of 2017
and C.M.P.No.3736 of 2017

Isaiyamudhu

... Petitioner/Respondent

Manimaran

Vs.

... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.150 of 2016 pending on the file of the Subordinate Court, Mannargudi and transfer the same to the file of the Subordinate Court, Chidambaram.

For Petitioner : M/S.T.Ghana Banu

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.150 of 2016 pending on the file of the Subordinate Court, Mannargudi and transfer the same to the file of the Subordinate Court, Chidambaram.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 29.12.2012 as per Hindu rites and customs at Sri Rajagopalasamy Thirukovil at Rajamannarkudi, Thiruvarur District. After marriage, both were living together in the matrimonial home at Rajamannargudi, Thiruvarur District. Subsequently, the respondent, his mother and sister did not allow the petitioner to live in the matrimonial home on demanding further dowry and thrown her out from the matrimonial home. At present, the petitioner is residing at Chidambaram along with her parents. The petitioner has filed H.M.O.P.No.110 of 2015 on the file of the Subordinate Court, Chidambaram for restitution of conjugal rights and also filed M.C.No.1 of 2015 under Section 125 Cr.P.C. on the file of the Judicial Magistrate's Court No.I, Chidambaram, claiming interim maintenance. On receiving notice in the said H.M.O.P.No.110 of 2015 and M.C.No.1 of 2015, the respondent has filed H.M.O.P.No.150 of 2016 on the file of the Subordinate Court, Mannargudi, for divorce, only to harass the petitioner with ulterior motive in payment of maintenance.

3. According to the petitioner, her parents are aged persons and hence, they are unable to accompany the petitioner to travel from Chidambaram to Mannargudi to attend the proceedings in H.M.O.P.No.150 of 2016 filed by the respondent. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.150 of 2016 pending on the file of the Subordinate Court, Mannargudi to the file of the Subordinate Court, Chidambaram.

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

5. 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].

6. 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.150 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Mannargudi and transferred to the file of the Subordinate Court, Chidambaram and to be tried along with H.M.O.P.No.110 of 2015 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Mannargudi, is directed to transmit all the records pertaining to H.M.O.P.No.150 of 2016 to the file of the Subordinate Court, Chidambaram, within a period of two weeks from the date of receipt of a copy of this order.

7. 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

KJ

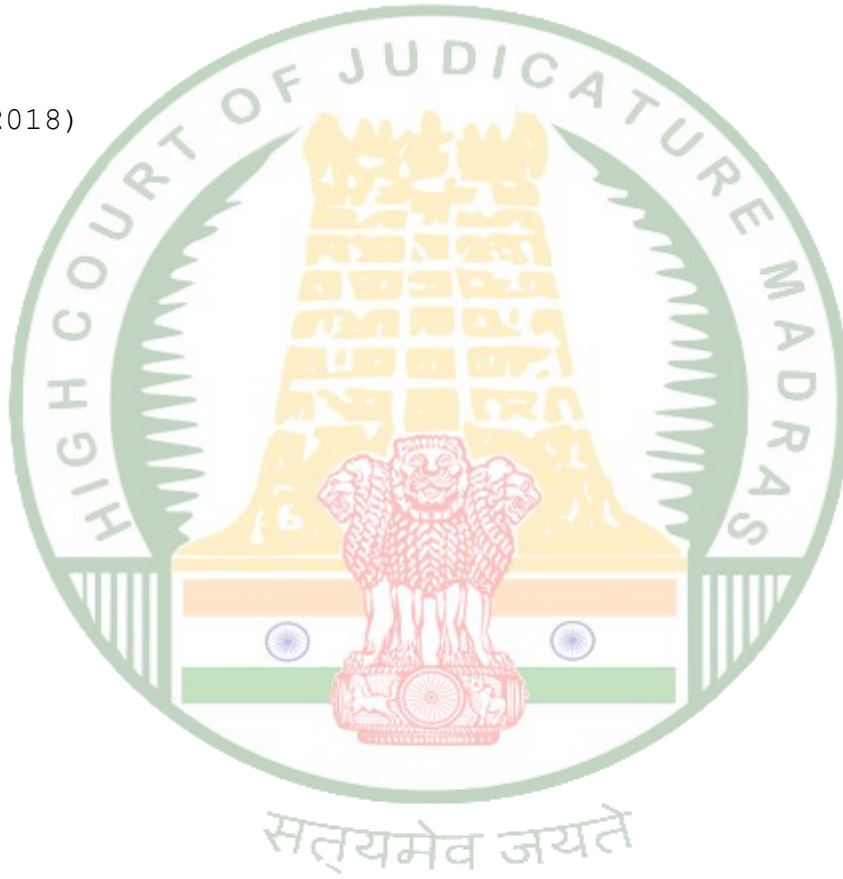
To

1.The Subordinate Court, Chidambaram.

2.The Subordinate Court, Mannargudi.

Tr.C.M.P. No.203 of 2017
and C.M.P.No.3736 of 2017

PVS (CO)
EU (27/04/2018)



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