

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.243 of 2017
and C.M.P.No.4376 of 2017

S.Saranya

... Petitioner

Vs.

A.Sabarison

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.385 of 2016 pending on the file of the Subordinate Court, Tiruchirapalli and transfer the same to the file of the Subordinate Court, Villupuram to be tried along with H.M.O.P.No.13 of 2017.

For Petitioner : M/s.V.Sasikala
for Mr.K.J.Saravanan
Served
For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.385 of 2016 pending on the file of the Subordinate Court, Tiruchirapalli and transfer the same to the file of the Subordinate Court, Villupuram to be tried along with H.M.O.P.No.13 of 2017.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 04.12.2011 at Shanmuga Mandapam at Villupuram. After the marriage, both the petitioner and respondent were living together in the matrimonial home at Raigarh, Chatisgarh till mid 2012. Then till mid 2013, they lived in Andhrapradesh. Thereafter moved to Uttarpradesh and finally lived in Thathayangarpettai. Since the respondent tortured the petitioner and attacked her brutally on 23.02.2016, she left the matrimonial home. The petitioner and the minor child are now living along with the parents in Villupuram. In the circumstances, the respondent filed H.M.O.P.No.385 of 2016 on the file of the Subordinate Court, Tiruchirapalli for restitution of conjugal rights. The petitioner filed vakalath on 23.12.2016 and also filed a petition in H.M.O.P.No.13 of 2017 on the file of Subordinate Court, Villupuram for divorce on the ground of cruelty.

3. According to the petitioner, she and her minor son are permanently residing at Villupuram Town, Villupuram District - 605602 along with her parents. The distance between Villupuram and Trichy is more than 165 kms. It is very difficult for the petitioner to travel such a long distance to attend each and every hearing along with the minor child. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to withdraw H.M.O.P.No.385 of 2016 from the file of the Subordinate Court, Tiruchirapalli and transfer to the file of the Subordinate Court, Villupuram to be tried along with H.M.O.P.No.13 of 2017.

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 is printed in the cause list, there is no representation for him 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]. Further as per the provisions of the Hindu Marriage Act, the place of the residence of wife must be taken into account.

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 and the residence of the petitioner is at Villupuram, the H.M.O.P.No.385 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Tiruchirapalli and transferred to the file of the Subordinate Court, Villupuram to be tried along with H.M.O.P.No.13 of 2017 in the interest of justice, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Tiruchirapalli, is directed to transmit all the records pertaining to H.M.O.P.No.385 of 2016 to the file of the Subordinate Court, Villupuram, 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 II)

//True copy//

Sub Assistant Registrar

gsa

To

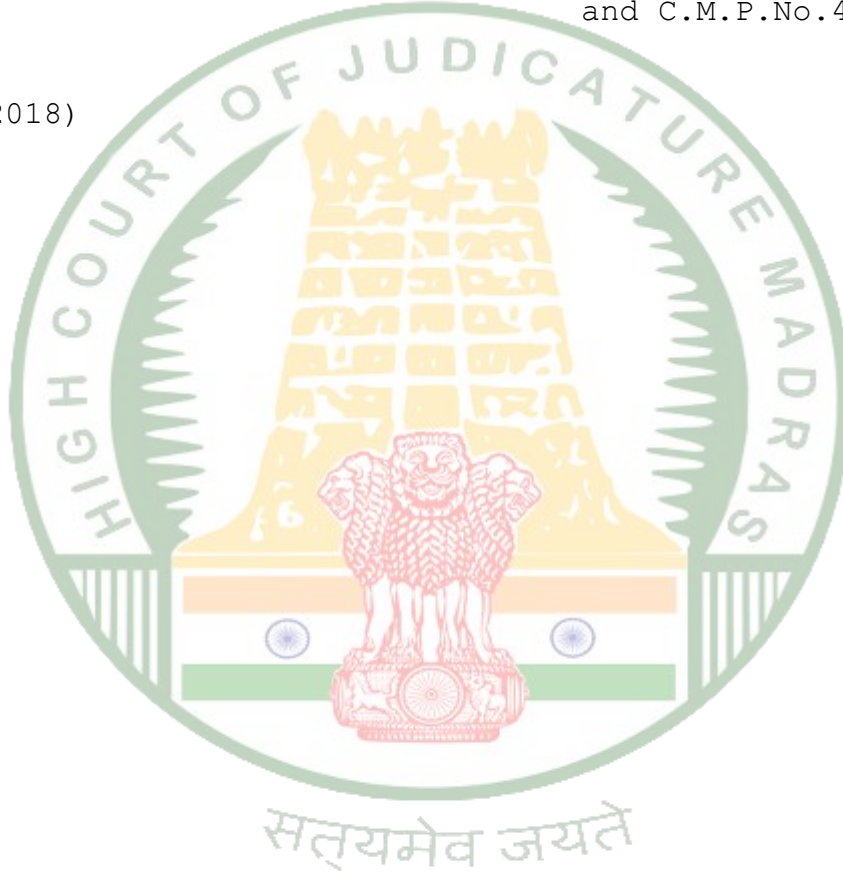
1.The Subordinate Judge,
Tiruchirapalli.

2.The Subordinate Judge,
Villupuram.

+1cc to Mr.K.J.Saravanan, Advocate SR.No.27553

Tr.C.M.P. No.243 of 2017
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GJ(CO)
GN(10/05/2018)



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