

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.460 of 2017

and C.M.P.No.9393 of 2017

R.Malathi

... Petitioner

Vs.

S.Manavalasundaram

... Respondent

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, Mayiladuthurai and transfer the same to the file of the Subordinate Court, Nilgiris at Uthagamandalam.

For Petitioner : M/S.A.B.Reehana Begam
for Mrs.P.Veena Suresh

For Respondent : No appearance

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, Mayiladuthurai and transfer the same to the file of the Subordinate Court, Nilgiris at Uthagamandalam.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 16.05.2010 as per Hindu rites and customs. A male child was born on 13.06.2011 in the wed lock. Due to difference of opinion between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.116 of 2015 on the file of the Subordinate Court, Mayiladuthurai, for dissolution of marriage on the ground of desertion and cruelty making false allegations. The petitioner filed counter statement on 05.10.2015 and denied all the allegations made by the respondent.

3. According to the petitioner, her minor son is six years old and at present, he is studying first standard in Cluny convent, Selas. The petitioner and her minor son are living with her parents for more than four years in Ooty. All the efforts taken by the petitioner for reunion with the respondent turned futile. The Court at Mayiladuthurai is more than 500 kilometres away from Ooty. She has to travel almost 22 hours to participate in the trial. The petitioner is not having any independent income to maintain herself and her minor son including the traveling expenses. It is very difficult for the petitioner to travel such a long distance without any assistance from others. In the circumstances, the petitioner has come out with the present Tr.C.M.P. for transfer of H.M.O.P.No.116 of 2015 from the file of the Subordinate Court, Mayiladuthurai to the file of the Subordinate Court, Nilgiris at Uthagamandalam.

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 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].

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.116 of 2015 is ordered to be withdrawn from the file of the Subordinate Court, Mayiladuthurai and transferred to the file of the Subordinate Court, Nilgiris at Uthagamandalam. The learned Subordinate Judge, Mayiladuthurai, is directed to transmit all the records pertaining to H.M.O.P.No.116 of 2015 to the file of the Subordinate Court, Nilgiris at Uthagamandalam, 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-vi)

//True Copy//

Sub Assistant Registrar

kj

TO

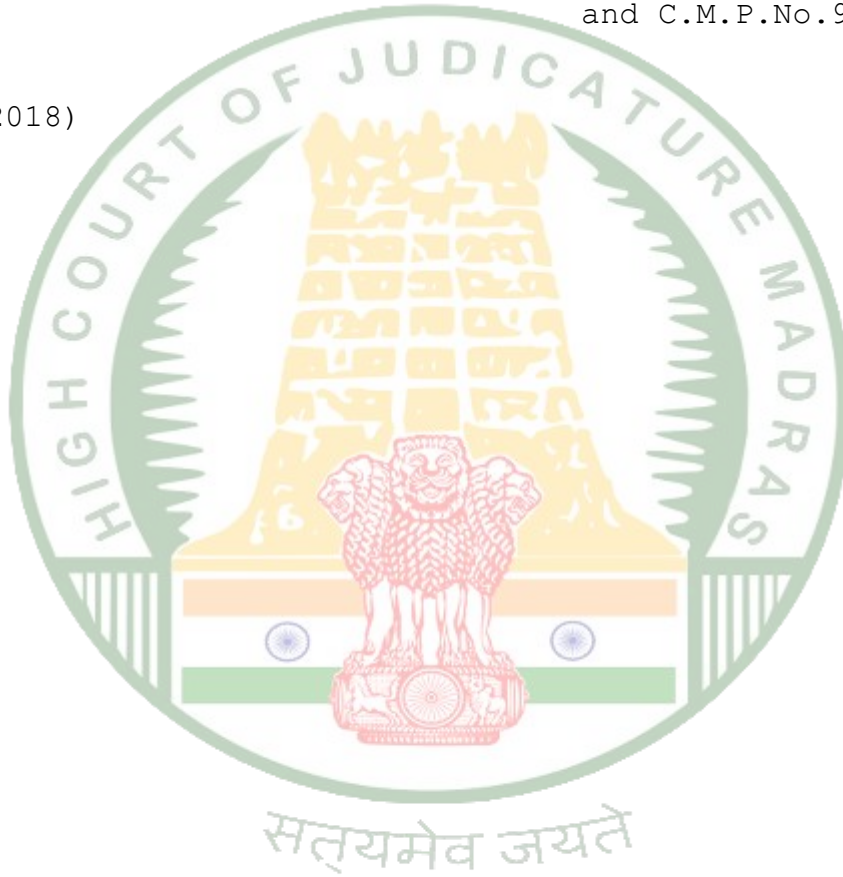
1.THE SUBORDINATE JUDGE
MAYILADUTHURAI.

2.THE SUBORDINATE JUDGE
NILGIRIS AT UTHAGAMANDALAM.

+lcc to Mr.p.veena suren, Advocate, S.R.No. 24463

Tr.C.M.P. No.460 of 2017
and C.M.P.No.9393 of 2017

ssv(CO)
TR(20/04/2018)



WEB COPY