

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.469 of 2017

S.Suganya Priya ... Petitioner

Vs.

Jagankumar ... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.149 of 2011 pending on the file of the Subordinate Court, Ponneri and transfer the same to the file of any Family Court, Chennai.

For Petitioner : Mr.J.R.K.Bhavnantham

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.149 of 2011 pending on the file of the Subordinate Court, Ponneri and transfer the same to the file of any Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 11.03.2004 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Chennai. In the wedlock, two children were born. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.149 of 2011 on the file of the Subordinate Court, Ponneri, for divorce against the petitioner. The petitioner appeared in the Court and filed M.P.No.47 of 2012 claiming interim maintenance of Rs.5,000/- for her and Rs.2,500/- each for her children and the same was granted and the respondent has not deposited the said maintenance amount ordered by the trial Court.

3. According to the petitioner, she is residing at Pattalam in Chennai along with her children. The distance from her residence and Ponneri is more than 40 kilometers and hence, it is very difficult for her to travel to attend the Court proceedings at Ponneri, as she has to take care of her son and daughter, who are studying VIIIth and VIth standard respectively, in Doveton I.C.S.C. School at Purasaiwalkam in Chennai. Further, as her parents are aged persons, she has to make alternate arrangements to leave the children in the school and take them back from school to home. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.149 of 2011 from the file of the Subordinate Court, Ponneri, to the file of any Family Court, Chennai.

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 on behalf of him either in person or through counsel.

5. It is an admitted fact that the petitioner is residing at Pattalam in Chennai and her children are studying in Doveton school at Purasaiwalkam, Chennai. The contention of the learned counsel for the petitioner that to attend the Court at Ponneri, the petitioner has to spend considerable amount and time and it will be convenient for both the parties, if H.M.O.P.No.149 of 2011 is transferred to the Family Court, Chennai, has considerable force.

6. 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.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.149 of 2011 is ordered to be withdrawn from the file of the Subordinate Court, Ponneri and transferred to the file of the Family Court, Chennai. The learned Subordinate Judge, Ponneri, is directed to transmit all the records pertaining to H.M.O.P.No.149 of 2011 to the file of the Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

1.The Subordinate Judge, Ponneri.

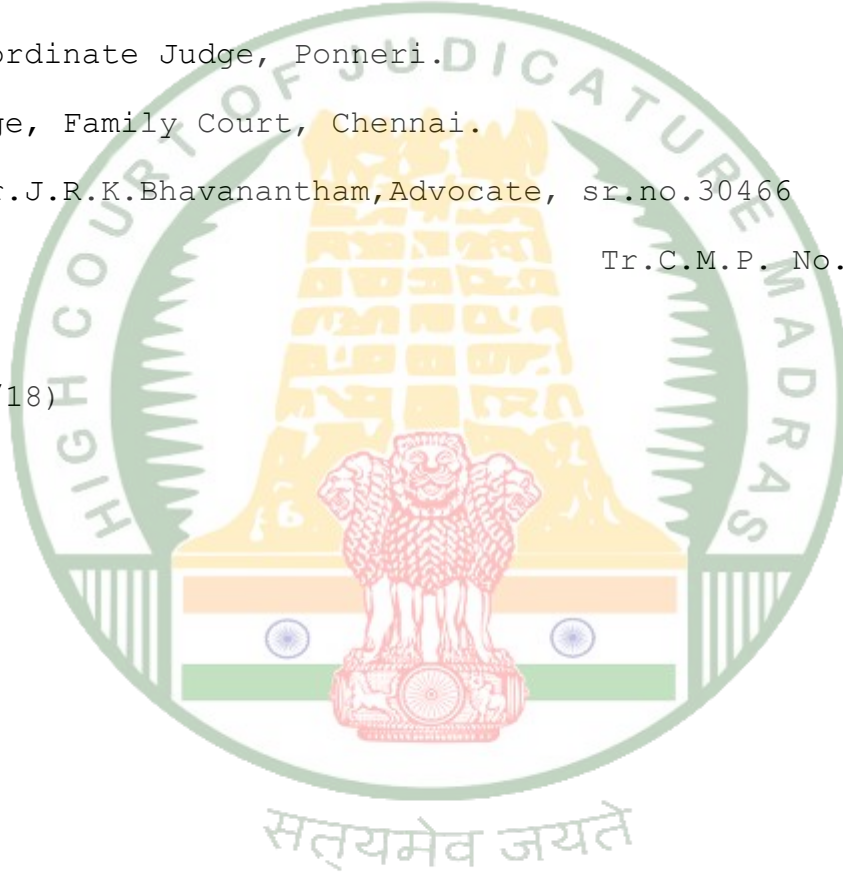
2.The Judge, Family Court, Chennai.

+1cc to Mr.J.R.K.Bhavanantham,Advocate, sr.no.30466

Tr.C.M.P. No.469 of 2017

VGII (CO)

RRK (22/05/18)



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