

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.476 of 2017

and C.M.P.No.9958 of 2017

M.Viji

... Petitioner

Vs.

K.Muthu

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw O.P.No.757 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.M.Balamurugan
for M/s.A.S.Kailasam and Asso.

For Respondent : No appearance

O R D E R

This petition is filed to withdraw O.P.No.757 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the Family Court, Madurai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 04.06.1984 at Kadiapatti Sivaganga District as per Hindu rites and customs. After the marriage, both the petitioner and respondent were living together in the matrimonial home at Kolkatta and subsequently at Chennai. In the wedlock, two children by name Malar and Usha were born on 15.07.1985 and 25.07.1988 respectively. Certain disputes arose between the petitioner and respondent, for which the respondent deserted the petitioner in the month of October 2015 without informing her about his whereabouts. The respondent issued notice on 04.04.2016 to join him. The petitioner also sent a reply notice dated 20.04.2016, agreeing for reunion. While so, the respondent filed O.P.No.757 of 2017 on the file of the I Additional Family Court, Chennai for divorce on the ground of cruelty.

3. According to the petitioner, she is an uneducated lady and has no independent income. She is living in Madurai. It is very difficult for her to travel from Madurai for each and every hearing before the I Additional Family Court, Chennai as the distance between Madurai and Chennai is more than 450 kms. Both the daughters got married and they are living separately with their husband and no one is there to accompany the petitioner to travel such a long distance. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer O.P.No.757 of 2017 pending on the file of the I Additional Family Court, Chennai to the Family Court, Madurai.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and he entered appearance through counsel, 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 O.P.No.757 of 2017 is ordered to be withdrawn from the I Additional Family Court, Chennai and transferred to the file of the Family Court, Madurai. The learned I Additional Family Court Judge, Chennai, is directed to transmit all the records pertaining to O.P.No.757 of 2017 to the file of the Family Court, Madurai, 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/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

gsa

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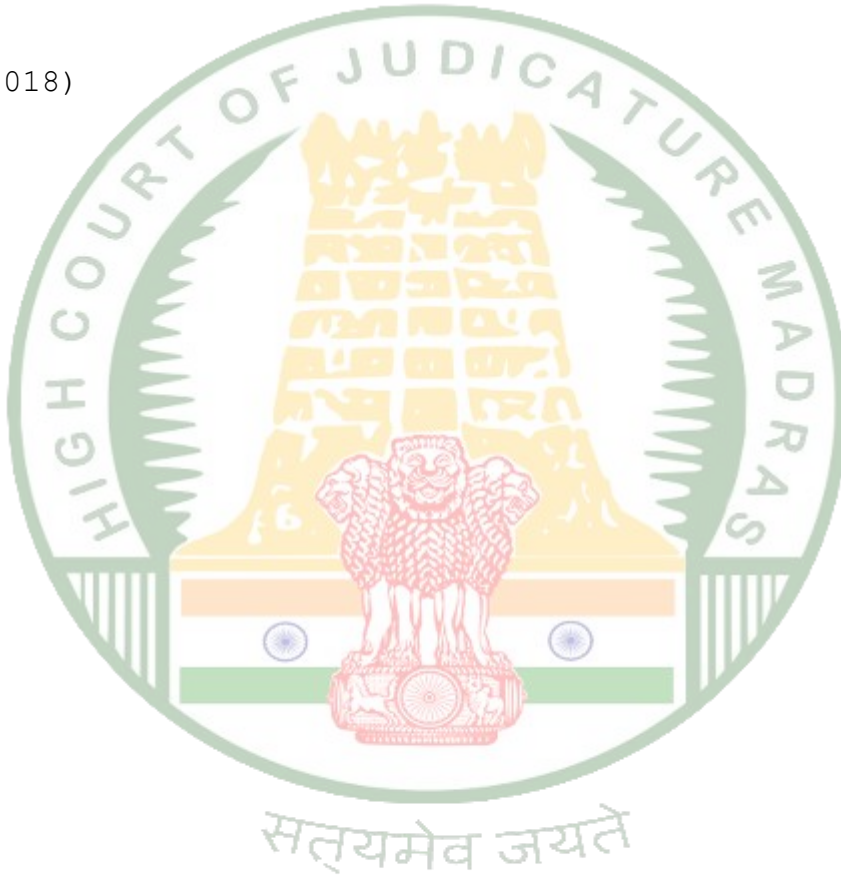
1.The I Additional Family Court Judge,
Chennai

2.The Family Court Judge,
Madurai.

+1cc to Mr.A.S.KAILASAM, Advocate, S.R.No. 24800

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TR(20/04/2018)



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