

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.479 of 2017
and C.M.P.No.9962 of 2017

M.Divya

... Petitioner

Vs.

B.Yuvaraj

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.28 of 2017 pending on the file of the Subordinate Court, Udhagamandalam and transfer the same to the file of the Subordinate Court, Sathyamangalam.

For Petitioner : Mr.D.R.Arun Kumar
For Respondent : M/s.L.Mouli

O R D E R

This petition is filed to withdraw H.M.O.P.No.28 of 2017 pending on the file of the Subordinate Court, Udhagamandalam and transfer the same to the file of the Subordinate Court, Sathyamangalam.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 10.03.2016 at Havor Village as per Hindu rites and customs. After the marriage, both the petitioner and respondent were living together in the matrimonial home at Chennai. After some time, due to difference of opinion, both of them are living separately. At the time of marriage, the petitioner was working in Software company in Chennai and she lost her job due to the family circumstances. The respondent forcefully thrown her out from the matrimonial home and at present the petitioner is residing in the address given in the petition. The respondent filed H.M.O.P.No.28 of 2017 on the file of the Subordinate Court, Udhagamandalam for divorce against the petitioner.

3.According to the petitioner, she is residing in Erode. The distance between her residence and Udhagamandalam is more than 140 kms and she has to travel from one hill to another hill to attend the Court proceedings in H.M.O.P.No.28 of 2017 at Udhagamandalam. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.28 of 2017 pending on the file of the Subordinate Court, Udhagamandalam to the Subordinate Court, Sathyamangalam.

4. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that now the H.M.O.P.No.28 of 2017 is transferred to Subordinate Court, Connoor and renumbered as H.M.O.P.No.9 of 2018.

5. The learned counsel for the respondent submitted that the respondent is residing in Havoar Village, Kotagiri and it will be difficult for him to travel from Kotagiri to Sathyamangalam for each and every hearing in H.M.O.P.No.9 of 2018 and prayed for dismissal of the petition and prayed for dismissal of Transfer Civil Miscellaneous Petition.

6. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

7. 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.

8. 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.9 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Connoor and transferred to the file of the Subordinate Court, Sathyamangalam. The learned Subordinate Judge, Connoor is directed to transmit all the records pertaining to H.M.O.P.No.9 of 2018 to the file of the Subordinate Court, Sathyamangalam, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Subordinate Judge, Sathyamangalam is directed to dispose of the H.M.O.P.No.9 of 2018 on merits and in accordance with law, as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order.

9. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

gsa

To

1.The Subordinate Judge,
Sathyamangalam.

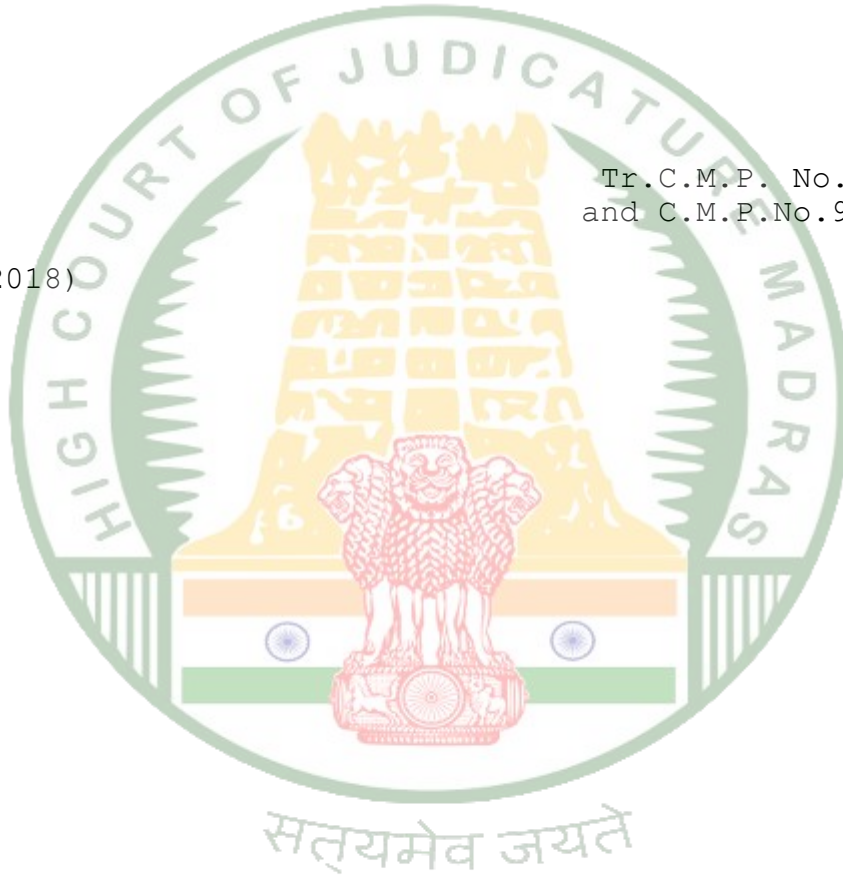
2.The Subordinate Judge,
Connoor.

+1 CC to D.R. Arunkumar, advocate sr 24791.

+1 CC to Mr.L. Mouli, Advocate sr 24963.

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SP(19/04/2018)



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