

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.506 of 2017
and C.M.P.No.10436 of 2017

K.M.Mehilin

... Petitioner

Vs.

B.Asir

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw D.O.P.No.1608 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the District Court, Nagercoil, Kanyakumari District.

For Petitioner : M/S.K.Kanimozhi for Mr.N.Rajan

For Respondent : Mr.V.Pavel

O R D E R

This petition is filed to withdraw D.O.P.No.1608 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the District Court, Nagercoil, Kanyakumari District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnised on 11.01.2010 as per Christian rites and customs. Two male children were born on 07.10.2013 and 14.09.2014 in the wedlock. The respondent and his mother treated the petitioner and children with cruelty and threatened them and threw them out of the matrimonial home. The petitioner and minor children gave a complaint to the Karungal Police Station and a case was registered in Crime No.245 of 2016. They also filed D.V.O.P.No.24 of 2016 before the District Munsif-cum-Judicial Magistrate's Court, Eraniel, under Domestic Violence Act. After receipt of notice in the D.V.O.P. case, the respondent has filed D.O.P.No.1608 of 2017 on the file of the I Additional Family Court, Chennai, for divorce against the petitioner.

3. According to the petitioner, she is residing in a village in Kanyakumari District along with her children and parents. The petition filed by the respondent is frivolous and vexatious. Only to wriggle out of the cruelty including demand of dowry, the respondent filed the said D.O.P. before the I Additional Family Court, Chennai. The distance between Kanyakumari and Chennai is more than 700 kilometers and hence, it will be very difficult for the petitioner to travel such a long distance to attend the Court proceedings for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer D.O.P.No.1608 of 2017 pending on the file of the I Additional Family Court, Chennai, to the file of the District Court, Nagercoil, Kanyakumari District.

4. The learned counsel for the respondent submitted that the respondent is residing at Chennai and it will be very difficult for him to travel from Chennai to Kanyakumari to attend the Court proceedings for each and every hearing.

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

6. Considering the above contentions of the learned counsel for the petitioner as well as the respondent 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.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in D.O.P.No.1608 of 2017 is ordered to be withdrawn from the file of the I Additional Family Court, Chennai and transferred to the file of the District Court, Nagercoil, Kanyakumari District. The learned I Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to D.O.P.No.1608 of 2017 to the file of the District Court, Nagercoil, Kanyakumari District, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

kj

To

1.I Additional Judge, Family Court, Chennai.

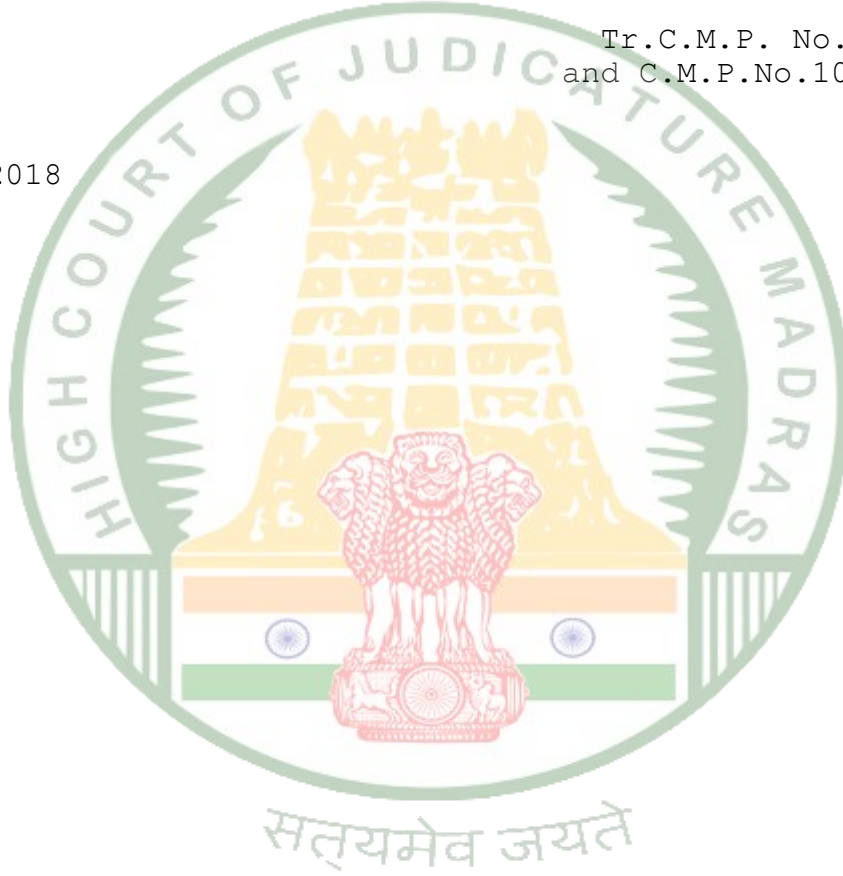
2.The District Judge, Nagercoil, Kanyakumari District.

+1cc to Mr.N.Rajan, Advocate sr.no.34947

+1cc to Mr.V.Pavel, Advocate sr.no.34907

Tr.C.M.P. No.506 of 2017
and C.M.P.No.10436 of 2017

ssv(co)
nr 25/06/2018



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