

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.509 of 2017
and C.M.P.No.10454 of 2017

J.Sharmila Banu

... Petitioner

Vs.

R.Arifteen

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.18 of 2017 pending on the file of the Family Court, Salem and transfer the same to the file of the Family Court, Dharmapuri.

For Petitioner : Mr.C.Munusamy

For Respondent : No Appearance

ORDER

This petition is filed to withdraw the suit in O.S.No.18 of 2017 pending on the file of the Family Court, Salem and transfer the same to the file of the Family Court, Dharmapuri.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 11.01.2015 at Boopathi Thirumana Mandapam, Dharmapuri as per Muslim Rites and Customs. After the marriage, both the petitioner and respondent were living together in the matrimonial home at Salem only for three months. By demanding dowry, the respondent and his family members thrown the petitioner out from the matrimonial home. She lodged a complaint on 15.04.2015 before the Commissioner of Police, Salem and now she is residing along with her parents at Dharmapuri. The petitioner filed M.C.No.17 of 2017 before the Family Court, Dharmapuri and the same is pending. While so, the respondent filed O.S.No.18 of 2017 for divorce against the petitioner before the Family Court, Salem.

3.According to the petitioner, being a lady, it is very difficult for her to travel from Dharmapuri to Salem to appear before the Family Court for each and every hearing as the respondent and his henchmen are threatening her with dire consequences. In the

circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer O.S.No.18 of 2017 from the file of Family Court, Salem to the file of the Family Court, Dharmapuri.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through Advocate, there is no representation for him.

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]**. Further as per the provisions of the Hindu Marriage Act, the place of the residence of the wife must be taken into account.

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 and the residence of the petitioner at Dharmapuri, the petition in O.S.No.18 of 2017 is ordered to be

withdrawn from the file of the Family Court, Salem and transferred to the file of the Family Court, Dharmapuri. The learned Family Judge, Salem, is directed to transmit all the records pertaining to O.S.No.18 of 2017 to the file of the Family Court, Dharmapuri, 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.

10.04.2018

gsa

To

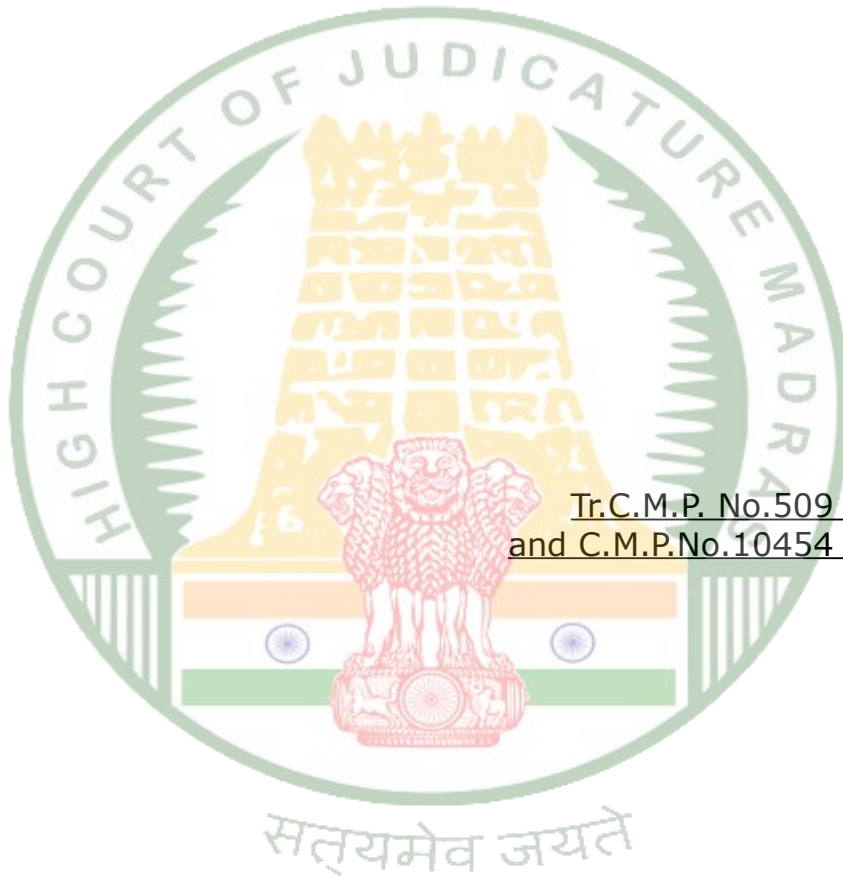
1.The Family Court Judge,
Dharmapuri.

2.The Family Court Judge,
Salem.

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V.M.VELUMANI,J.

Gsa



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