

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.529 of 2017

S.Revathi

.. Petitioner

Vs.

K.Subramanian

.. Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.45 of 2017 pending on the file of the Subordinate Court, Ranipet and transfer the same to the file of the Family Court, Coimbatore.

For Petitioner : Mr.P.Vinodhkumar

For Respondent : Mr.K.G.Senthil kumar

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.45 of 2017 pending on the file of the Subordinate Court, Ranipet and transfer the same to the file of the Family Court, Coimbatore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 10.02.2000 at Arulmighu Swamynatha Swamy Thirukovil, Swamimalai as per Hindu Rites and Customs. In the wedlock a female child was born. After marriage, both the petitioner and respondent were living together in the matrimonial home at Coimbatore. The respondent left for Tholudur to do his Doctorate research-Ph.D., in Vellore VIT University. After which he deserted the petitioner and filed H.M.O.P.No.45 of 2017 on the file of the Subordinate Court, Ranipet.

3.According to the petitioner, she is residing and working in Coimbatore. The daughter of the petitioner and respondent is studying in XII Standard at Dr.V.Genguswamy Naidu Matric Hr. Sec. School, Othakkalmandapam, Coimbatore. The distance between Coimbatore and Ranipet is 415 kms and hence it is very difficult for her to travel along with teenage daughter from Coimbatore to Ranipet, for each and every hearing. The respondent is politically influential person with muscle and money power and

it will not be safe for her to attend the Court proceedings at Ranipet. In the circumstances, the petitioner filed the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.45 of 2017 pending on the file of the Subordinate Court, Ranipet to the file of the Family Court, Coimbatore.

4.The learned counsel for the respondent filed counter affidavit and contended that the petitioner has filed a complaint in C.C.No.36 of 2017 before Judicial Magistrate Court, Tittagudi and already she is attending the Court proceedings regularly before Judicial Magistrate, Tittagudi. The respondent is working as an Associate Professor in a Deemed University at Vellore and it will be very difficult for him to take leave to attend every hearing before the Family Court at Coimbatore and prayed for transferring H.M.O.P.No.45 of 2017 to common place.

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

6.The petitioner and respondent made various allegations and counter allegations against each other which are not relevant to decide this Transfer Petition. The contention of the petitioner that being a lady, it is very difficult for her to travel along with teenage minor daughter to attend the proceedings at Ranipet has considerable force.

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 the wife must be taken into account.

8.At the same time, the contention of the respondent that it will be difficult for him to get leave from his employer to attend every hearing before the Family Court through Advocate is also to be considered. In view of the above facts, the petitioner and respondent are directed to appear in person during trial and as and when so directed by the Family Court Judge.

9.With the above direction, the petition in H.M.O.P.No.45 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Ranipet and transferred to the file of the Family Court, Coimbatore. The learned Subordinate Judge, Ranipet, is directed to transmit all the records pertaining to H.M.O.P.No.45 of 2017 to the file of the Family Court, Coimbatore within a period of two weeks from the date of receipt of a copy of this order.

10. Accordingly, this Transfer Civil Miscellaneous Petition is ordered. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Family Court Judge,
Coimbatore.

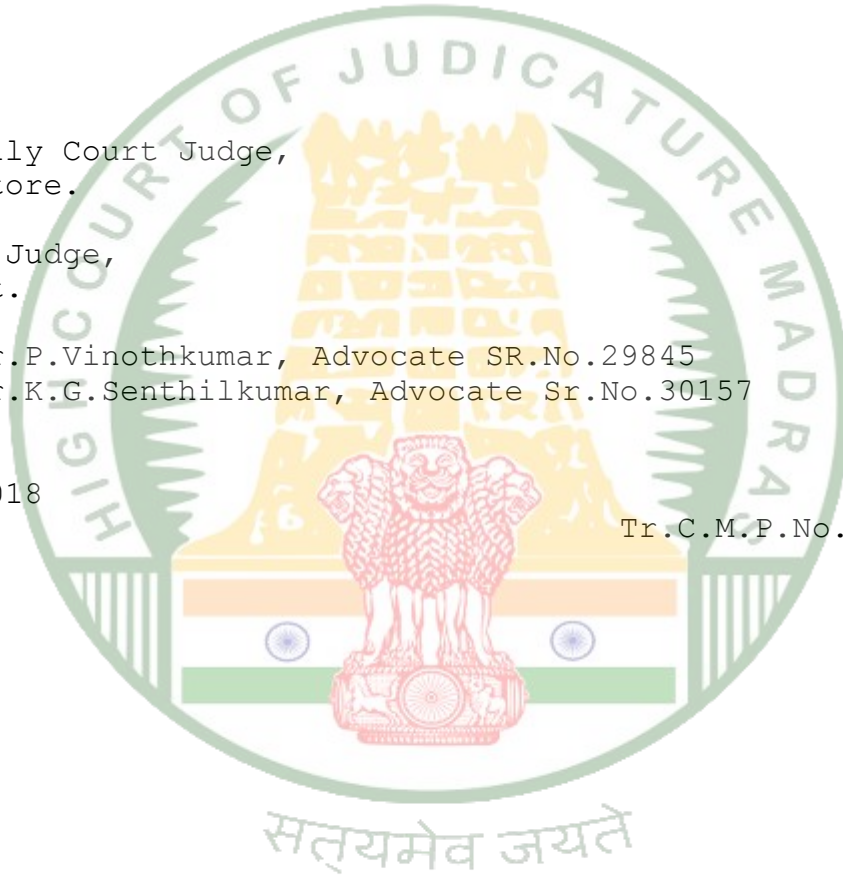
2.The Sub Judge,
Ranipet.

+1cc to Mr.P.Vinothkumar, Advocate SR.No.29845

+1cc to Mr.K.G.Senthilkumar, Advocate Sr.No.30157

BS(CO)
sm:21.6.2018

Tr.C.M.P.No.529 of 2017



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