

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.533 of 2017
and C.M.P.No.10881 of 2017

A.Geetha Niranjini

... Petitioner

Vs.

P.Muthukumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.1073 of 2017 pending on the file of the II Additional Family Court, Chennai and transfer the same to any other competent Court in Tuticorin.

For Petitioner : Ms.R.S.Indira
for Mr.P.K.Ganesh

For Respondent : Mr.P.V.Selvarajan
for M/s.R.Aranganathan

O R D E R

This petition is filed to withdraw F.C.O.P.No.1073 of 2017 pending on the file of the II Additional Family Court, Chennai and transfer the same to any other competent Court in Tuticorin.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 05.07.2012 at Door No.4/183, Umarimanagar, Srivarikundam Taluk, Tuticorin District as per Hindu rites and customs. A female child was born in the wedlock and she is aged about 2 ½ years. The respondent and his family members demanded more dowry and tortured the petitioner. Due to the same, the petitioner left matrimonial home and is residing at Tuticorin along with her mother who is aged about 70 years. The respondent filed F.C.O.P.No.1073 of 2017 for divorce against the petitioner on the file of the II Additional Family Court, Chennai. On the date of hearing, the petitioner appeared before II Additional Family Court, Chennai. On that date, the respondent abused the petitioner and her brother in filthy language and threatened her life. In view of the same, the petitioner has come out with the present Transfer Civil Miscellaneous Petition. According to the petitioner, the distance between Srivaikundam and Chennai is more than 600 kms and it is very difficult for her to travel such a long distance along with her aged mother.

3.The learned counsel for the respondent submitted that no such incident happened on the date of hearing. The petitioner has filed the affidavit making false allegations against the respondent. The two brothers of the petitioner are staying in Chennai and she is residing only at Chennai and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

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

5.From the materials available on record, it is seen that the respondent has filed the F.C.O.P.No.1073 of 2017 on the file of the II Additional Family Court, Chennai, showing the address of the petitioner as "Door No.4/183, Umarimanagar, Srivaikundam Taluk, Thuthukudi (Tuticurin) District, Tamil Nadu". Admittedly, the petitioner is staying at the address mentioned above.

6.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 Hindu Marriage Act, the place of the residence of wife must be taken into account.

7.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 is at Tuticorin, the petition in F.C.O.P.No.1073 of 2017 is ordered to be withdrawn from the file of the II Additional Family Court, Chennai and transferred to the file of the Subordinate Court, Tuticorin. The learned II Additional Family Court Judge, Chennai is directed to transmit all the records pertaining to F.C.O.P.No.1073 of 2017 to the file of the Subordinate Judge, Tuticorin within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

To

1.The II Additional Family Court Judge,
Chennai.

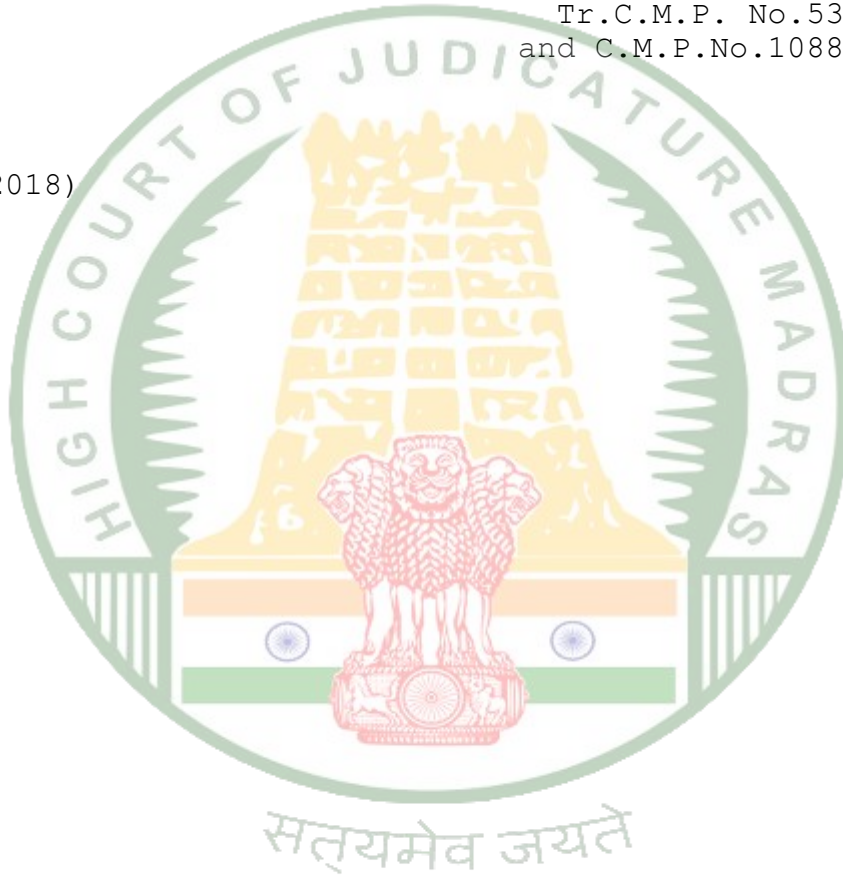
2.The Subordinate Judge,
Tuticorin.

+ 1 cc to Mr.P.K. Ganesh, Advocate Sr.24779

+ 1 cc to Mr. R. Aranganathan, Advocate Sr.25448

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PA (CO)
EU (02/05/2018)



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