

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.569 of 2017

and C.M.P.No.11860 of 2017

Gunashankari

... Petitioner

Vs.

Bharanidharan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.18 of 2016 pending on the file of the Family Court, Villupuram and transfer the same to the file of the Family Court, Jayankondam.

For Petitioner : M/s.L.Srileka

For Respondent : M/s.R.Arundattan  
for M/s.C.Munusamy

O R D E R

This petition is filed to withdraw H.M.O.P.No.18 of 2016 pending on the file of the Family Court, Villupuram and transfer the same to the file of the Family Court, Jayankondam.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 04.06.2014 at Periyannayagi Marriage Hall, Manjakuppam, Cuddalore as per Hindu rites and customs. After the marriage, both the petitioner and respondent were living together in the matrimonial home at Padmavathy Nagar, Ragavanpettai, Villupuram Taluk, Villupuram District. The petitioner was deserted by the respondent. All the efforts taken by the petitioner's family members to reunite the petitioner and respondent ended in vain. Hence she filed a complaint before the All Women Police Station at Villupuram and registered a case in Cr.No.8 of 2014. The petitioner also filed O.P.No.133 of 2015 for divorce, which was later dismissed for default. Mean while, the respondent filed H.M.O.P.No.185 of 2014 for restitution of conjugal rights before the Principal Subordinate Court, Cuddalore which was dismissed for default. Suddenly, the respondent also filed H.M.O.P.No.18 of 2016 on the file of the Family Court, Villupuram for divorce.

3.According to the petitioner, she is living with her aged

parents in Ariyalur. The distance between Ariyalur and Villupuram is more than 99 kms. It is very difficult for her to travel each and every hearing in H.M.O.P.No.18 of 2016 at Villupuram along with her aged parents. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition for transfer of H.M.O.P.No.18 of 2016 pending on the file of the Family Court, Villupuram to the file of the Subordinate Court, Jayankondam.

4.The learned counsel for the petitioner also stated that on 24.01.2017, when the petitioner attended the Court at Villupuram along with her mother, the respondent and his father abused the petitioner and attempted to attack her. The petitioner escaped and on the advice of others, she lodged a complaint before the Police Station at Villupuram and got a copy of C.S.R.No.70 of 2017.

5.The learned counsel for the respondent submitted that the petitioner has filed Transfer Civil Miscellaneous Petition with false allegations and no such incident happened on 24.01.2017. Only for the sake of getting the Transfer Civil Miscellaneous Petition allowed, the petitioner is making false allegations against the respondent. He further submitted that the complaint given by the petitioner is closed as mistake of fact, after enquiry and prayed for dismissal of the 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 and the residence of the petitioner at Jayankondam, the petition in H.M.O.P.No.18 of 2016 is ordered to be withdrawn from the file of the Family Court, Villupuram and transferred to the file of the Subordinate Court, Jayankondam. The learned Family Court Judge, Villupuram is directed to transmit all the records pertaining to H.M.O.P.No.18 of 2016 to the file of the Subordinate Court, Jayankondam, within a period of two weeks 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.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsa

To

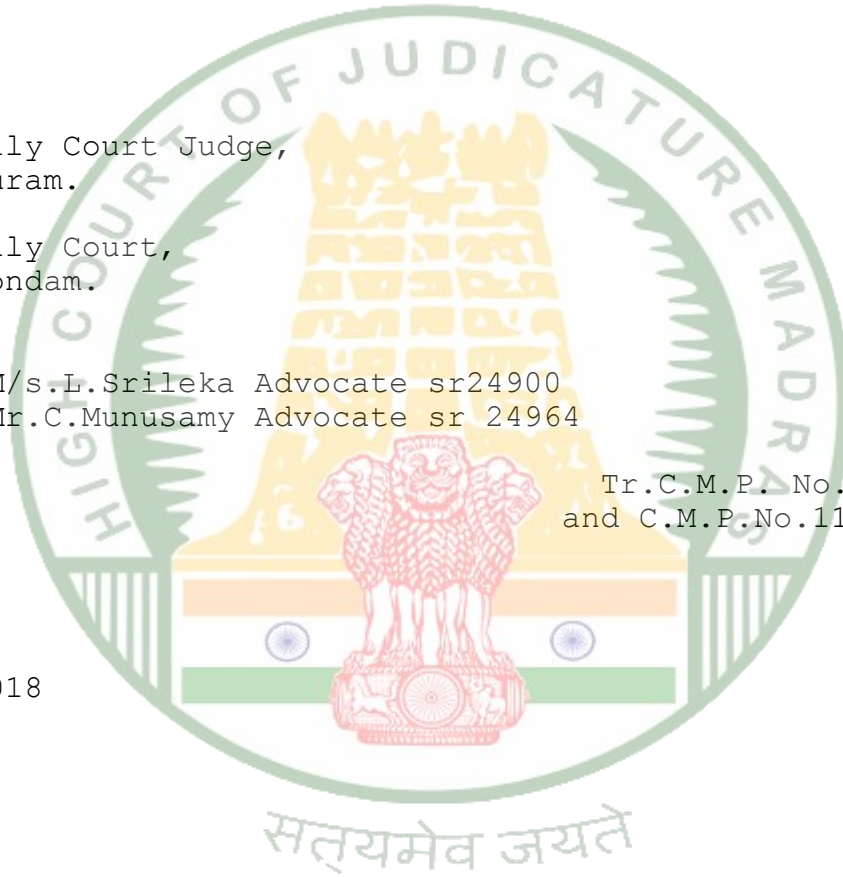
1.The Family Court Judge,  
Villupuram.

2.The Family Court,  
Jayankondam.

+1 cc to M/s.L.Srileka Advocate sr24900  
+1 cc to Mr.C.Munusamy Advocate sr 24964

Tr.C.M.P. No.569 of 2017  
and C.M.P.No.11860 of 2017

gj(co)  
aa03/05/2018



WEB COPY