

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.582 of 2017
and C.M.P.No.12191 of 2017

T.Kanagalatha .. Petitioner/Respondent

Vs.

T.Balamurugan .. Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.167 of 2017 pending on the file of the Subordinate Court, Poonamallee and transfer the same to the file of the Family Court, Coimbatore.

For Petitioner : Mr.S.Senthamil Selvan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.167 of 2017 pending on the file of the Subordinate Court, Poonamallee 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 12.06.2013 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at No.42, Jawahar street, Perayampaththu, Thirumalisai, Chennai-600 124. The respondent and his family members have treated the petitioner cruelly. On 27.03.2015, the parents of the petitioner have conducted a family pooja for the welfare of the family and invited the respondent to participate in the pooja. The petitioner alone went to Coimbatore for attending the pooja. Subsequently, the petitioner fell ill and after few months, she went back to her matrimonial home along with her parents. The respondent did not permit the petitioner to enter into the house and threatened the life of the petitioner and her parents. The petitioner gave a complaint to the Inspector of Police, All Women Police Station, Tiruvallur District. As per the counselling, the respondent took the petitioner to the matrimonial home and was living for two months. Again the respondent and his family members have continuously harassed the petitioner. On 24.12.2015, the respondent drove the

petitioner away from the matrimonial home. At present, the petitioner is residing with her parents at Coimbatore. The petitioner on 30.08.2016 filed a petition before the Judicial Magistrate's Court, Coimbatore under the Domestic Violence Act, against the respondent and his family members and the same is numbered as D.V.A.No.37 of 2016 and is now pending for enquiry. The respondent in order to escape from the complaint given by the petitioner under the Domestic Violence Act, filed H.M.O.P.No.167 of 2017 against the petitioner on the file of the Subordinate Court, Poonamallee, for restitution of conjugal rights.

3. According to the petitioner, she is residing at Coimbatore along with her parents and the distance between Coimbatore and Poonamallee is more than 490 kilometers. Hence, it is very difficult for her to travel such a long distance. The petitioner is not having any independent income to maintain herself and to meet out the traveling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. for transfer of H.M.O.P.No.167 of 2017 from the file of the Subordinate Court, Poonamallee to the file of the Family Court, Coimbatore.

4. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that the case in H.M.O.P.No.167 of 2017 may be transferred to the Principal Family Court, Coimbatore.

5. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name has been printed in the cause list, there is no representation for him either in person or through counsel.

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].

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, the petition in H.M.O.P.No.167 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Poonamallee and transferred to the file of the Principal Family Court, Coimbatore. The learned Subordinate Judge, Poonamallee, is directed to transmit all the records pertaining to H.M.O.P.No.167 of 2017 to the file of the Principal Family Court, Coimbatore, 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)

//True Copy//

Sub Assistant Registrar

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To

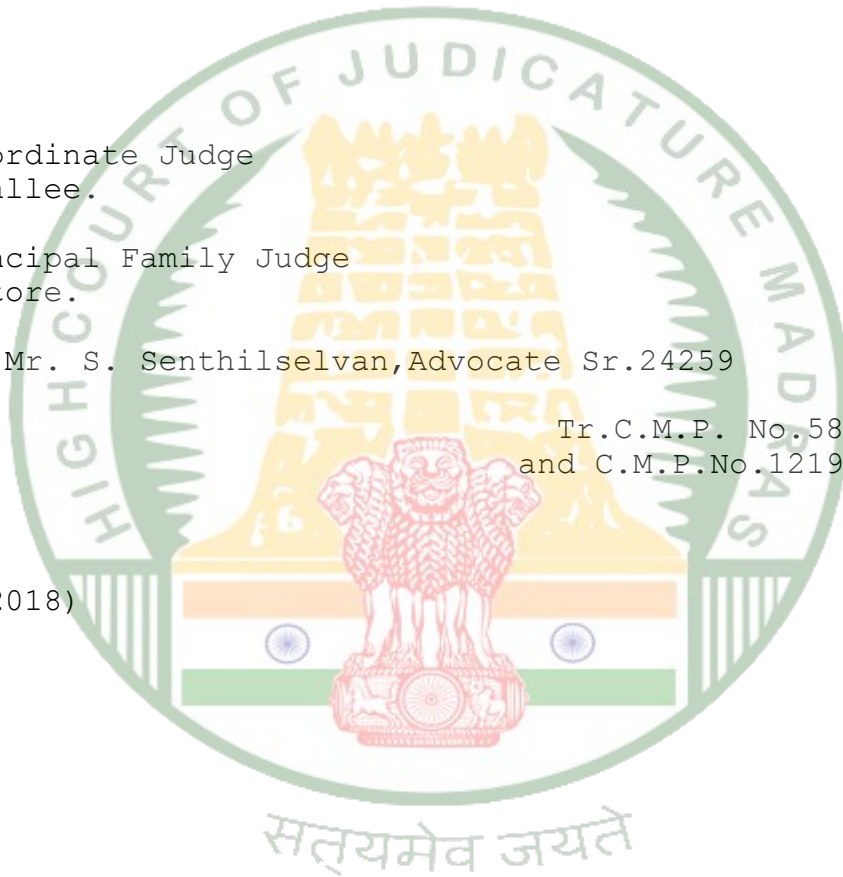
1.The Subordinate Judge
Poonamallee.

2.The Principal Family Judge
Coimbatore.

+ 1 cc to Mr. S. Senthilselvan, Advocate Sr.24259

Tr.C.M.P. No.582 of 2017
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PVs (CO)
EU (24/04/2018)



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