

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.585 of 2017
and C.M.P.No.12262 of 2017

A.Vidyarathi

... Petitioner

Vs.

R.Kasirajan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.30 of 2017 pending on the file of the Family Court, Sivagangai and transfer the same to the file of the Family Court, Salem.

For Petitioner : M/s.A.Rajeswari
Karhtikeyan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.30 of 2017 pending on the file of the Family Court, Sivagangai and transfer the same to the file of the Family Court, Salem.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 06.12.2015 as per Hindu rites and customs. After marriage, the respondent and his family members by demanding more dowry had assaulted the petitioner and thrown her out from the matrimonial home and the respondent filed H.M.O.P.No.30 of 2017 on the file of the Family Court, Sivagangai, for divorce making false allegations against the petitioner.

3.According to the petitioner, she is residing in Salem along with her mother. The distance between Salem and Sivagangai is more than 230 kilometers. She is not having any independent income and hence it is difficult for her to travel such a long distance. Further, she has no one to accompany her to travel from Salem to Sivagangai to attend the Court proceedings for each and every hearing. She apprehends that the respondent and

his family members will give trouble to her, when she attends the Court proceedings at Sivagangai. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.30 of 2017 from the file of the Family Court, Sivagangai, to the file of the Family Court, Salem.

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

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, place of residence of 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 residence of the petitioner in Salem, the petition in H.M.O.P.No.30 of 2017 is ordered to be withdrawn from the file of the Family Court, Sivagangai and transferred to the file of the Family Court, Salem. The learned Judge, Family Court, Sivagangai, is directed to transmit all the records pertaining to H.M.O.P.No.30 of 2017 to the file of the Family Court, Salem, 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.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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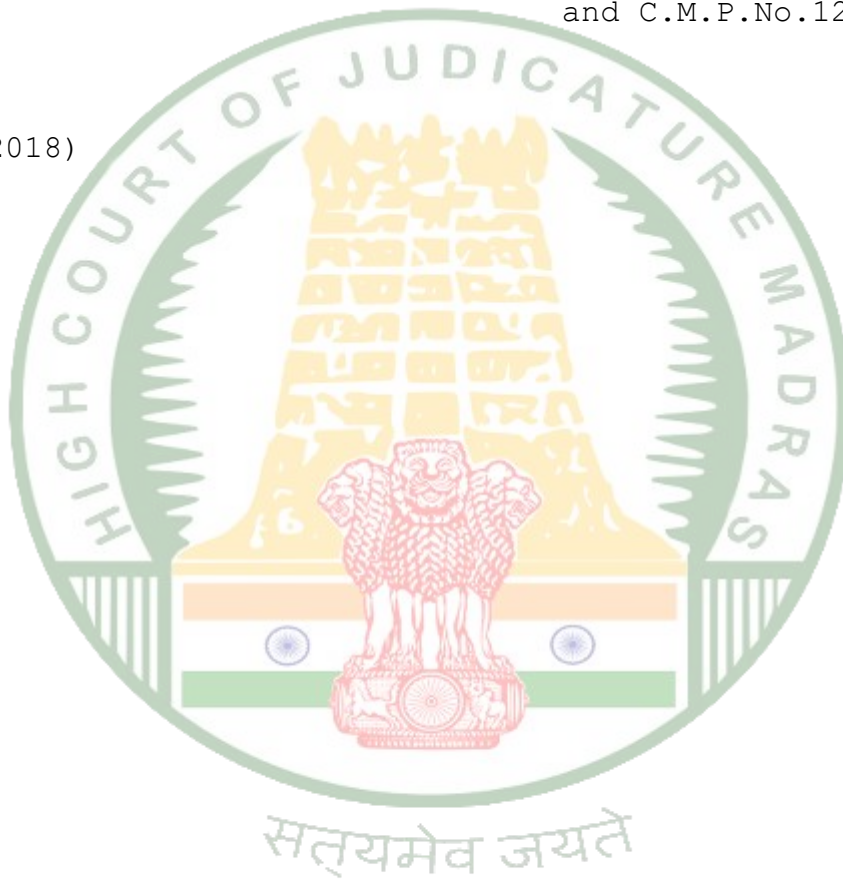
1.The Judge, Family Court, Sivagangai.

2.The Judge, Family Court, Salem.

+1 CC to M/s.A. Rajeswari Karthikeyan, Advocate sr 25045.

Tr.C.M.P. No.585 of 2017
and C.M.P.No.12262 of 2017

SSD(CO)
SP(24/04/2018)



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