

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.591 of 2017
and C.M.P.No.12316 of 2017

S.Saranya

... Petitioner

Vs.

Senthiljawahar @ Kartick

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.89 of 2015 pending on the file of the Subordinate Court, Paramakudi and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.Rajenthiran
for Mr.S.Madhavan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the H.M.O.P.No.89 of 2015 pending on the file of the Subordinate Court, Paramakudi and transfer the same to the file of the Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 05.05.2014 at MGM Thirumana Mahal, Kaatuparamakudi as per Hindu Rites and Customs. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.89 of 2015 on the file of the Subordinate Court, Paramakudi for restitution of conjugal rights.

3.According to the petitioner, she is residing in working Women Hostel in Chennai and attending classes for writing competitive exams and simultaneously searching for job. The distance between Chennai and Paramakudi is more than 550 kms. Being a women, it is very difficult for her to travel such a long distance and she is spending huge amount for attending each and every hearing. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to

transfer H.M.O.P.No.89 of 2015 from the file of the Subordinate Court, Paramakudi to the file of the Family Court, Chennai.

4.The learned counsel for the petitioner also stated that the petitioner has filed F.C.O.P.No.147 of 2015 for divorce against the respondent and the same is pending before III Additional Family Court, Chennai.

5.Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, there is no representation for him.

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 the Hindu Marriage Act, the place of the residence of the 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, the residence of the petitioner is at Chennai, the petition in H.M.O.P.No.89 of 2015 is ordered to be withdrawn from the file of the Subordinate Court, Paramakudi and transferred to the file of the III Additional Family Court, Chennai to be tried along with F.C.O.P.No.147 of 2015 in the interest of justice, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Paramakudi, is directed to transmit all the records pertaining to H.M.O.P.No.89 of 2015 to the file of the III Additional Family Court, Chennai, 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 VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

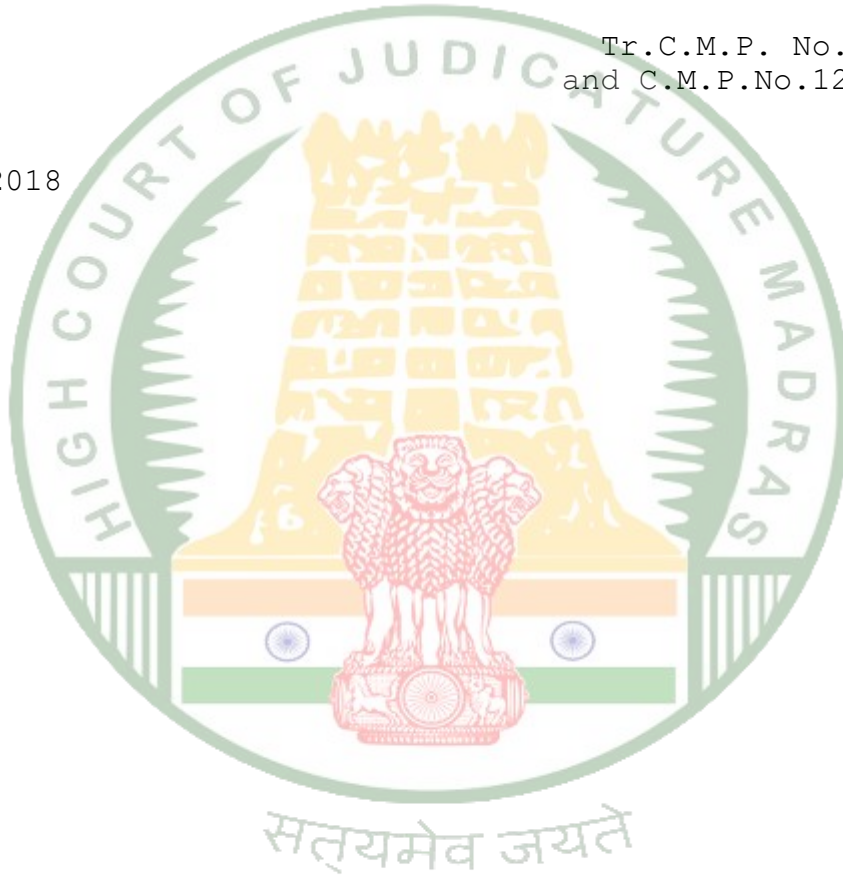
1.The III Additional Family Court Judge,
Chennai.

2.The Subordinate Judge,
Paramakudi.

+lcc to Mr.S.Madhavan, Advocate sr.no.27543

Tr.C.M.P. No.591 of 2017
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sg(co)
nr 23/05/2018



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