

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.605 of 2017  
and C.M.P.No.12723 of 2017

A.Lavanya

... Petitioner

Vs.

A.B.Thamaraikumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.128 of 2016 pending on the file of the Sub Court, Hosur and transfer the same to the file of the Sub Court, Tiruchengode to be tried along with H.M.O.P.No.14 of 2017.

For Petitioner : Mr.V.S.Kesavan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.128 of 2016 pending on the file of the Sub Court, Hosur and transfer the same to the file of the Sub Court, Tiruchengode to be tried along with H.M.O.P.No.14 of 2017.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 26.02.2007. After marriage, both the petitioner and respondent were living together in the matrimonial home at Hosur. In the wedlock, a male child was born on 04.12.2008. By demanding dowry, the respondent thrown the petitioner out from the matrimonial home. The respondent after exchange of notice, filed H.M.O.P.No.128 of 2016 on the file of the Sub Court, Hosur for restitution of conjugal rights to avoid paying maintenance to her and the minor child. The petitioner filed H.M.O.P.No.14 of 2017 for divorce on the ground of cruelty and desertion before the Sub Court, Tiruchengode.

3. According to the petitioner, she is residing along with her aged parents and minor child at Tiruchengode. The distance between Tiruchengode and Hosur is more than 250 kilometers. Being a lady, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Hosur. Further, she is not having any independent income. She is depending on her parents for her day-to-day expenses, including traveling expenses. In the said circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.128 of 2016 pending on the file of the Sub Court, Hosur, to the file of the Sub Court, Tiruchengode, to be tried along with H.M.O.P.No.14 of 2017 to avoid conflicting decisions being delivered by two different Courts.

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

5. Considering the above contention of the learned counsel for the petitioner and well settled judicial pronouncement of 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], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.128 of 2016 is ordered to be withdrawn from the file of the Sub Court, Hosur and transferred to the file of the Sub Court, Tiruchengode to be tried along with H.M.O.P.No.14 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Hosur, is directed to transmit all the records pertaining to H.M.O.P.No.128 of 2016 to the file of the Sub Court, Hosur, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

LPP/gsa

To

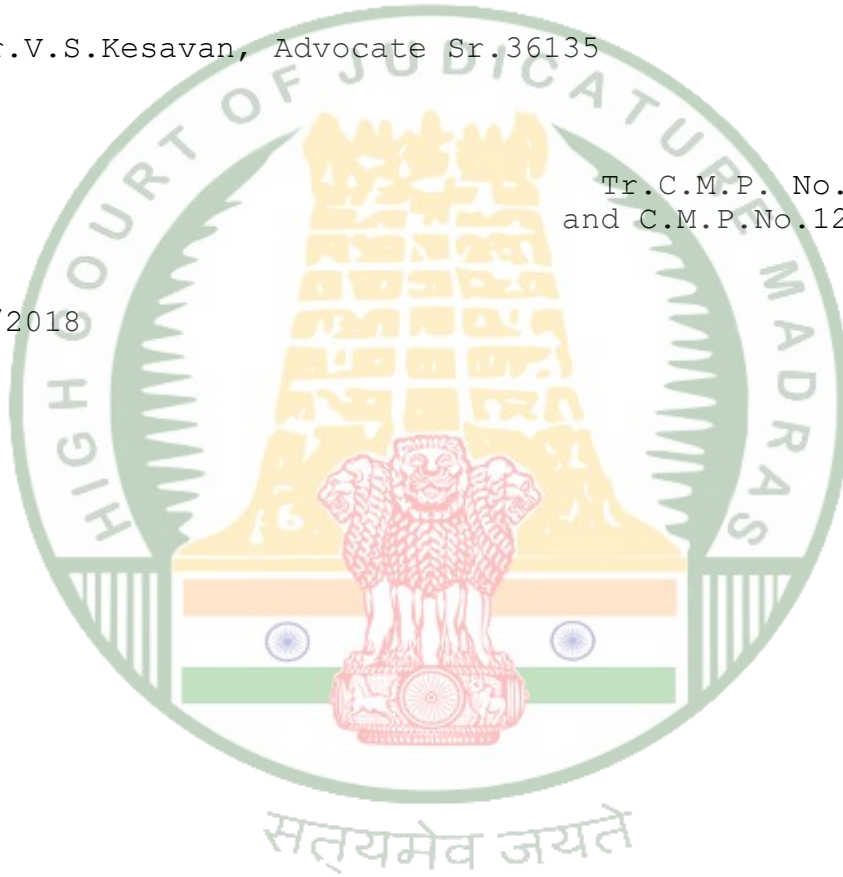
1.The Subordinate Judge,  
Hosur.

2.The Subordinate Judge,  
Tiruchengode.

+1cc to Mr.V.S.Kesavan, Advocate Sr.36135

Tr.C.M.P. No.605 of 2017  
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srg 29/06/2018



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