

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.672 of 2017

and C.M.P.No.13241 of 2017

C.Hemalatha ... Petitioner/Respondent
Vs.
M.Sakthivel ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.783 of 2017 pending on the file of the Principal Family Court, Coimbatore and transfer the same to the file of the Subordinate Court, Gobichettipalayam, Erode District.

For Petitioner : M/s.P.Rajathi

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.783 of 2017 pending on the file of the Principal Family Court, Coimbatore and transfer the same to the file of the Subordinate Court, Gobichettipalayam, Erode District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 30.10.2014 at Pariyur Ammal Temple, Gobichettipalayam as per Hindu Rites and Customs. After the marriage, both the petitioner and respondent were living together in the matrimonial home at Mahalingpuram, Vellalore, Coimbatore District. In the wed-lock, a male child was born on 20.05.2015. Subsequently, by demanding dowry, the respondent and his family members forced the petitioner to leave the matrimonial home. The petitioner filed a complaint under 125 of Cr.P.C claiming maintenance before the Judicial Magistrate No.I, Gobichettipalayam. While so, the petitioner received notice in H.M.O.P.No.783 of 2017 on the file of the Principal Family Court, Coimbatore.

3.According to the petitioner, as a counter blast, the respondent filed H.M.O.P.No.783 of 2017 for restitution of conjugal rights in order to avoid payment of maintenance. At present, the petitioner is residing with her aged parents and

minor child at Nagadevampalayam Village, Erode District, which is more than 100 Kilometers away from Coimbatore. It is very difficult for her to travel such a long distance along with minor child and aged parents. She is not having any independent income and depending on her parents for day-to-day expenses including traveling expenses. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition for transfer of H.M.O.P.No.783 of 2017 from the file of the Principal Family Court, Coimbatore to the file of the Subordinate Court, Gobichettipalayam, Erode District.

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

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].

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, the petition in H.M.O.P.No.783 of 2017 is ordered to be withdrawn from the file of the Principal Family Court, Coimbatore and transferred to the file of the Subordinate Court, Gobichettipalayam, Erode District. The learned Principal Family Judge, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.783 of 2017 to the file of the Subordinate Court, Gobichettipalayam, Erode District, 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.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

gsa

To

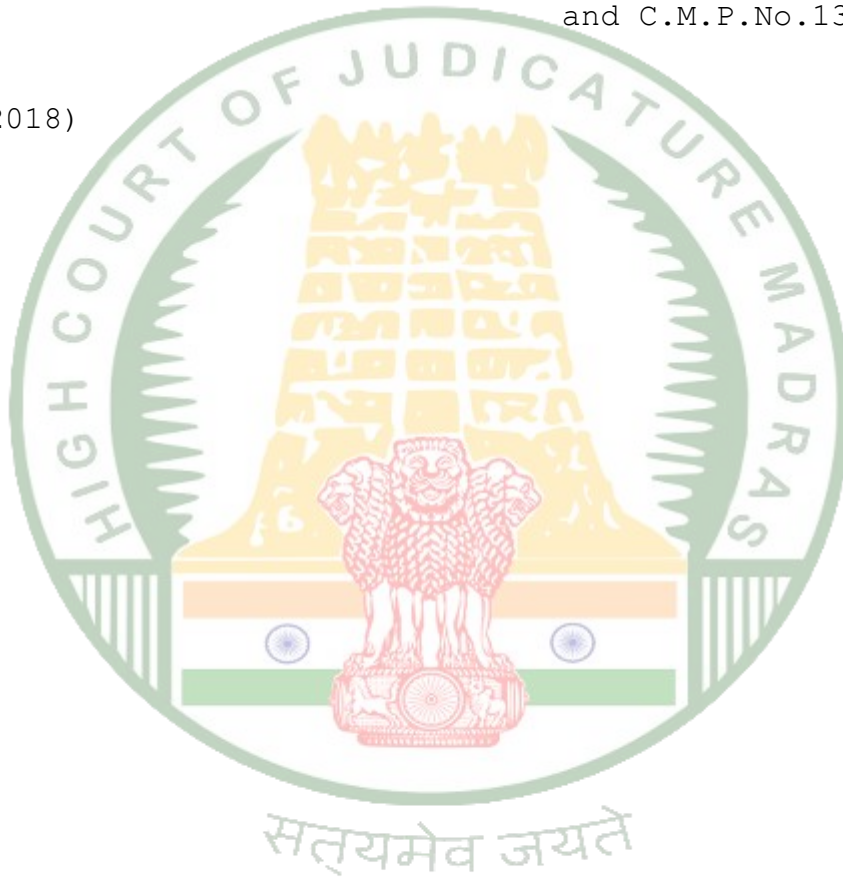
1.The Family Judge,
Coimbatore.

2.The Subordinate Judge,
Gobichettipalayam,
Erode District.

+1cc to Mr.C.VEERARAGHAVAN, Advocate, S.R.No. 24519

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SVI (CO)
TR(17/04/2018)



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