

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.683 of 2017
and C.M.P.No.13527 of 2017

Pradeepa ...Respondent/Petitioner/Respondent

Vs.

Satheesh Kumar ...Petitioner/Respondent/Petitioner

Prayer:-

Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.40 of 2017 pending on the file of the Subordinate Court, Tindivanam and transfer the same to the file of the Subordinate Court, Panrutti, to try along with H.M.O.P.No.20 of 2017.

For Petitioner: Mr.Kingston Jerold

For Respondent: Mr.V.Balasubramani

O R D E R

This petition is filed to withdraw H.M.O.P.No.40 of 2017 pending on the file of the Subordinate Court, Tindivanam and transfer the same to the file of the Subordinate Court, Panrutti, to try along with H.M.O.P.No.20 of 2017.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 11.04.2016 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Tindivanam. Due to the cruelty and harassment caused by the respondent, the petitioner was forced to leave the matrimonial home on 01.05.2016 and residing with her father. The respondent filed H.M.O.P.No.40 of 2017 on the file of the Subordinate Court, Tindivanam, for restitution of conjugal rights making false and untenable allegations against the petitioner. The petitioner filed H.M.O.P.No.20 of 2017 on

the file of the Subordinate Court, Panrutti, for dissolution of marriage and the same is pending.

3. According to the petitioner, she is residing along with her father at Kondoor Village in Cuddalore. The respondent is an influential person in Tindivanam and he is running a hotel business and got associated with lot of anti social elements. The distance between Cuddalore and Tindivanam is nearly about 130 kilometers. The petitioner is not having any independent income and hence, she finds it difficult to travel from Cuddalore to Tindivanam to attend the Court proceedings for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.40 of 2017 from the file of the Subordinate Court, Tindivanam, to the file of the Subordinate Court, Panrutti and to try along with H.M.O.P.No.20 of 2017 pending on its file.

4. The learned counsel for the respondent denied all the averments made by the petitioner and prayed for dismissal of the petition.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

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, place of residence of 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 petition in H.M.O.P.No.40 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Tindivanam and transferred to the file of the Subordinate Court, Panrutti, to be tried along with H.M.O.P.No.20 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, Tindivanam, is directed to transmit all the records pertaining to H.M.O.P.No.40 of 2017 to the file of the Subordinate Court, Panrutti, 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

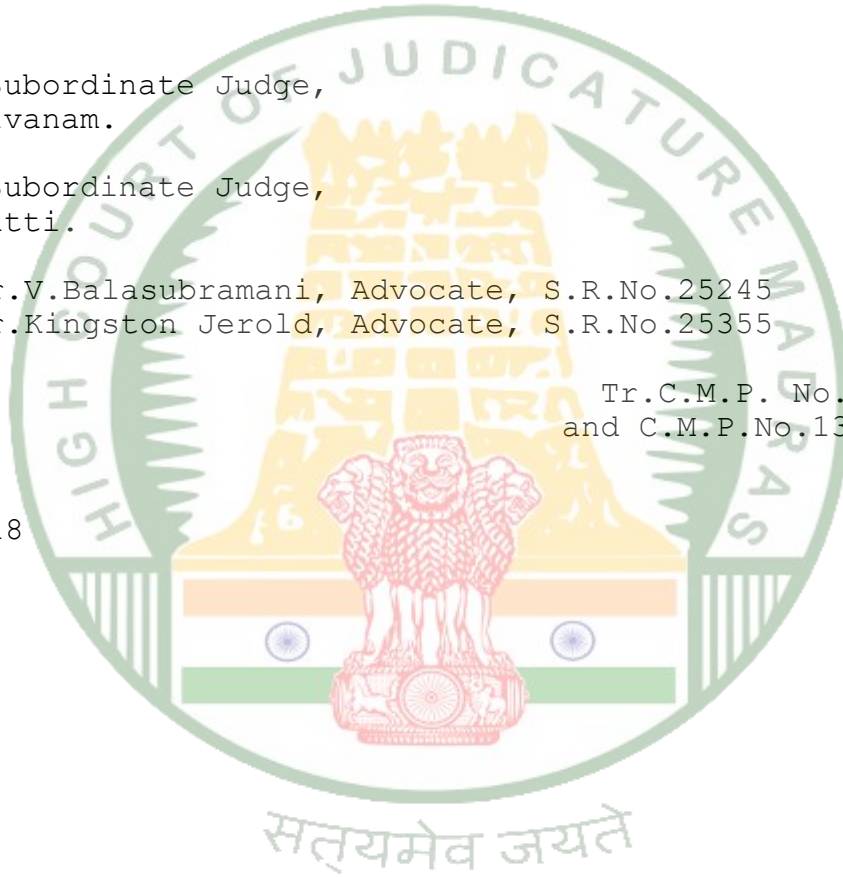
1. The Subordinate Judge,
Tindivanam.
2. The Subordinate Judge,
Panrutti.

+1cc to Mr.V.Balasubramani, Advocate, S.R.No.25245

+1cc to Mr.Kingston Jerold, Advocate, S.R.No.25355

Tr.C.M.P. No.683 of 2017
and C.M.P.No.13527 of 2017

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