

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2018

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P. No.787 of 2017
and C.M.P.No.16039 of 2017

Rupa Rani Esther

... Petitioner

Vs.

Andrews John

... Respondent

Prayer:-

Petition has been filed under Section 24 of C.P.C., to withdraw D.O.P.No.904 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.A.Kumanaraja

For Respondent : Mr.M.Mohideen Pitchai

O R D E R

This petition is filed to withdraw D.O.P.No.904 of 2017 pending on the file of the Additional Family Court, Coimbatore 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 solemnised on 18.05.2012 as per Christians rites and customs. After marriage, both were living together in the matrimonial home in Coimbatore. On 26.08.2013, the petitioner was thrown out from the matrimonial home by demanding dowry. The respondent filed D.O.P.No.904 of 2017 on the file of the Additional Family Court, Coimbatore, for divorce against the petitioner making false allegations.

3. According to the petitioner, she is residing at Villivakkam in Chennai along with her parents. She is not having any independent income to maintain herself. The distance between Chennai and Coimbatore is more than 500 kilometers and hence, it is very difficult for the petitioner to travel such a long distance to attend the Court proceedings at Coimbatore. In the

circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer D.O.P.No.904 of 2017 pending on the file of the Additional Family Court, Coimbatore, to the file of the Family Court, Chennai.

4.The learned counsel for the petitioner submitted that the petitioner filed M.C.No.397 of 2017 claiming maintenance against the respondent before the VI Additional Family Court, Chennai, subsequent to filing of the present Tr.C.M.P.

5.The learned counsel for the respondent submitted that the petitioner appeared before the Family Court, Coimbatore and refused to appear before the Mediation and hence, it will not be difficult for the petitioner to appear before the Court at Coimbatore and prayed for dismissal of the petition.

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

7. 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].

8.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 is at Chennai, the petition in D.O.P.No.904 of 2017 is ordered to be withdrawn from the file of the Additional Family Court, Coimbatore and transferred to the file of the VI Additional Family Court, Chennai, to be tried along with M.C.No.397 of 2017 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Additional Judge, Family Court, Coimbatore, is directed to transmit all the records pertaining to D.O.P.No.904 of 2017 to the file of the VI Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

9. 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

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To

1.The Additional Judge, Family Court, Coimbatore.

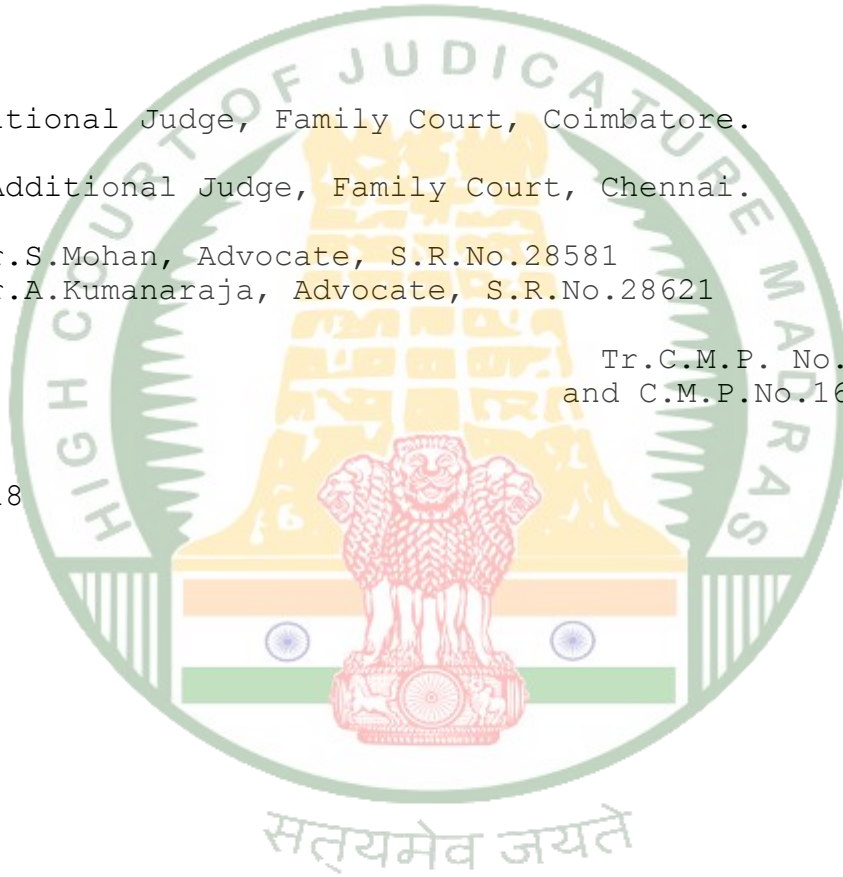
2.The VI Additional Judge, Family Court, Chennai.

+1cc to Mr.S.Mohan, Advocate, S.R.No.28581

+1cc to Mr.A.Kumanaraja, Advocate, S.R.No.28621

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