

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.809 of 2017
and C.M.P.No.16420 of 2017

V.Valarmathi

... Petitioner

Vs.

M.Muthukumar

.... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.330 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the IV Additional Family Court, Chennai to be tried along with the FCOP.No.3266/2017.

For Petitioner : Mr.S.Mohan

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.330 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the IV Additional Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 06.07.2015 at Sree Mahavir Jain Thirumana Mandapam, Triplicane, Chennai as per Hindu rites and customs. After marriage, both the petitioner and respondent were residing in the matrimonial home till 13.07.2015. Due to intervention of tamil month 'Adi', the petitioner went to her parents home. After returning from parental home, the respondent and family members treated the petitioner like an unwanted stranger by demanding more dowry. Thereafter the petitioner went to her parents' house and is residing there. While so, the petitioner received a notice dated 26.08.2017 in H.M.O.P.No.330 of 2017 filed by the respondent for divorce against the petitioner on the file of the Subordinate Court, Tambaram.

3. The petitioner filed F.C.O.P.No.3266 of 2017 on the file of the IV Additional Family Court, Chennai for restitution of conjugal rights. According to the petitioner, she is residing in Chennai and practicing as an Advocate in Chennai and the parents of the petitioner are aged and are suffering from illness and therefore, there is no one to attend each and every hearing of H.M.O.P proceedings before Subordinate Court, Tambaram and also stated that there is no safety for her due to violent behavior of the respondent and his relatives. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.330 of 2017 from the file of the Subordinate Court, Tambaram to IV Additional Family Court, Chennai.

4. Heard the learned counsel for the petitioner and perused the materials available on record. The respondent, on receiving notice entered through Advocate and filed vakalat. The said vakalat was returned. Though the names of the respondent and the counsel for the respondent are printed in the cause list, there is no representation for the respondent 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]. The learned counsel for the petitioner submitted that there is no safety for the life of petitioner if she goes to Tambaram to attend the hearing.

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.330 of 2007 is ordered to be withdrawn from the file of the Subordinate Court, Tambaram and transferred to the file of the IV Additional Family Court, Chennai to be tried along with F.C.O.P.No.3266 of 2017 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, Tambaram is directed to transmit all the records pertaining to H.M.O.P.No.330 of 2007 to the file of the IV Additional Family Court, Chennai, 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 VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge,
Tambaram

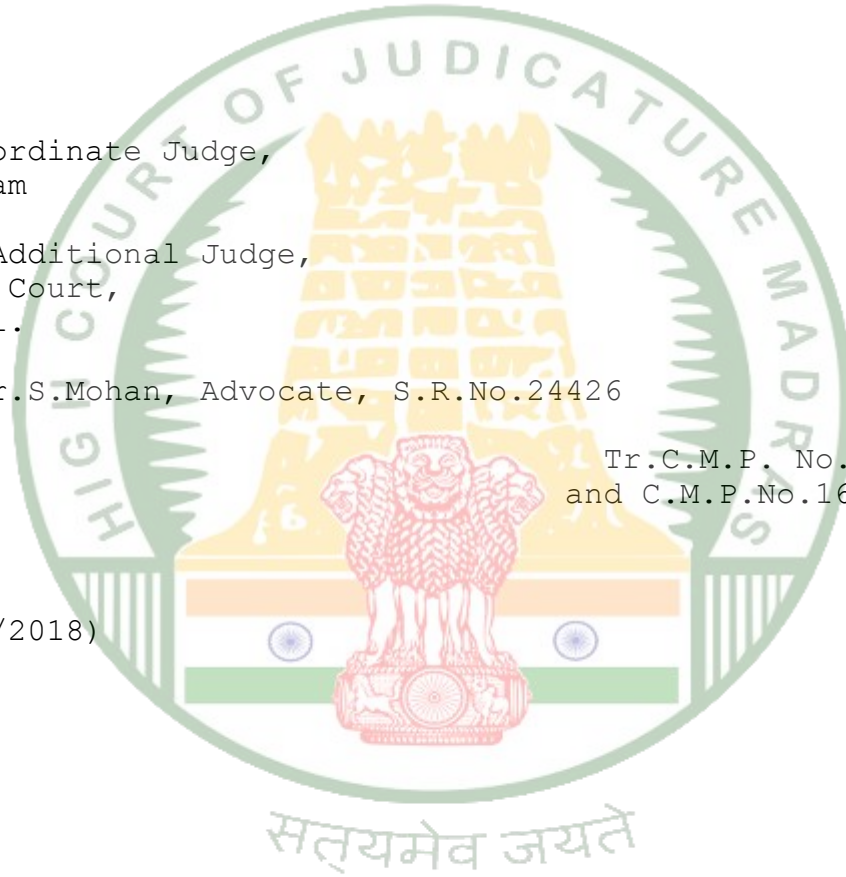
2.The IV Additional Judge,
Family Court,
Chennai.

+1cc to Mr.S.Mohan, Advocate, S.R.No.24426

Tr.C.M.P. No.809 of 2017
and C.M.P.No.16420 of 2017

SAI (CO)

RRK (25/04/2018)



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