

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.885 of 2017
and C.M.P.No.17860 of 2017

G.Vanitha

... Petitioner

Vs.

R.Sasikumar

.... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.9 of 2017 pending on the file of the Sub Court, Harur and transfer the same to the file of the Family Court, Salem.

For Petitioner : M/S.E.Gomathi

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.9 of 2017 pending on the file of the Sub Court, Harur and transfer the same to the file of the Family Court, Salem.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.01.2016 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home in Irulapatti, Dharmapuri District. Due to torture and cruelty committed by the respondent, the petitioner left the matrimonial home on 24.06.2016. The respondent filed H.M.O.P.No.9 of 2017 on the file of the Sub Court, Harur, for divorce against the petitioner.

3.According to the petitioner, she is residing at Maramangalathupatti, Salem District, along with her aged parents. It will take 3 to 4 hours from her residence to reach Dharmapuri to attend the Court proceedings for each and every hearing. Being a lady, it is very difficult for the petitioner

to go to Dharmapuri. The petitioner has filed M.C.No.7 of 2017 on the file of the Family Court, Salem, claiming maintenance against the respondent. The respondent is also regularly appearing before the Family Court, Salem, in the said case. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.9 of 2017 pending on the file of the Sub Court, Harur, to the file of the Family Court, Salem.

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 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.9 of 2017 is ordered to be withdrawn from the file of the Sub Court, Harur and transferred to the file of the Family Court, Salem, to be tried along with M.C.No.37 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, Harur, is directed to transmit all the records pertaining to H.M.O.P.No.9 of 2017 to the file of the Family Court, Salem, 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(CCC)

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Sub Assistant Registrar

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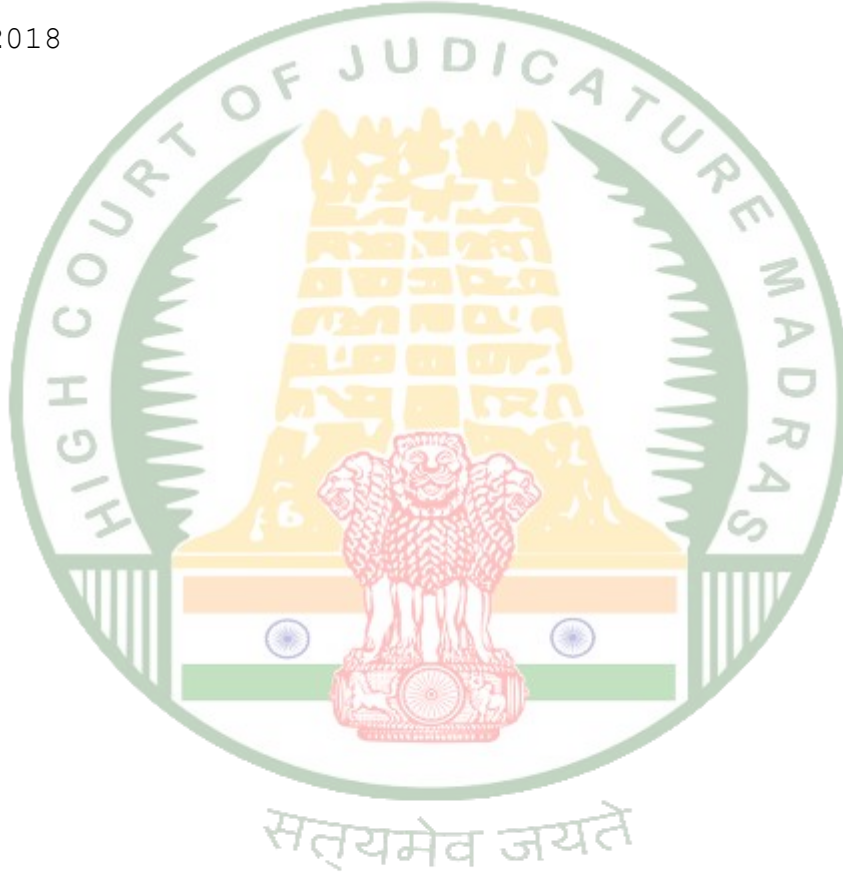
To

1.The Subordinate Judge, Harur.

2.The Judge, Family Court, Salem.

Tr.C.M.P.No.885 of 2017
and C.M.P.No.17860 of 2017

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