

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.888 of 2017
and C.M.P.No.18000 of 2017

C.Niranjana

... Petitioner

Vs.

G.C.Hemanth Kumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.245 of 2017 pending on the file of the Subordinate Court, Poonamallee and transfer the same to the file of the Family Court, Vellore.

For Petitioner : Mr.G.M.Shankar
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.245 of 2017 pending on the file of the Subordinate Court, Poonamallee and transfer the same to the file of the Family Court, Vellore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 01.11.2009 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Thirumazhisai, Chennai, with his parents. In the wed lock, a male child was born on 02.07.2013. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.245 of 2017 on the file of the Subordinate Court, Poonamallee, for dissolution of marriage.

3. According to the petitioner, she is residing at Sathuvachari in Vellore along with her minor child. As she is facing life threat at the hands of the respondent and his family members, it is difficult for her to attend the Court at Poonamallee. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.245 of 2017 pending on the file of the Subordinate Court, Poonamallee to the file of the Family Court, Vellore.

4. At the time of arguments, the learned counsel for the petitioner submitted that after filing the present Tr.C.M.P., the petitioner has also filed F.C.O.P.No.95 of 2017 for restitution of conjugal rights and F.C.M.C.No.33 of 2017 claiming maintenance on the file of the Family Court, Vellore. He further submitted that the respondent is appearing before the Family Court, Vellore in both the cases. Therefore, he prays for transfer of H.M.O.P.No.245 of 2017 from the file of the Subordinate Court, Poonamallee, to the file of the Family Court, Vellore and for joint trial along with F.C.M.C.No.33 of 2017 and F.C.O.P.No.95 of 2017, which will not cause any prejudice to the respondent.

5. 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.

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].

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.245 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Poonamallee and transferred to the file of the Family Court, Vellore and to be tried along with F.C.M.C.No.33 of 2017 and F.C.O.P.No.95 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, Poonamallee, is directed to transmit all the records pertaining to H.M.O.P.No.245 of 2017 to the file of the Family Court, Vellore, 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.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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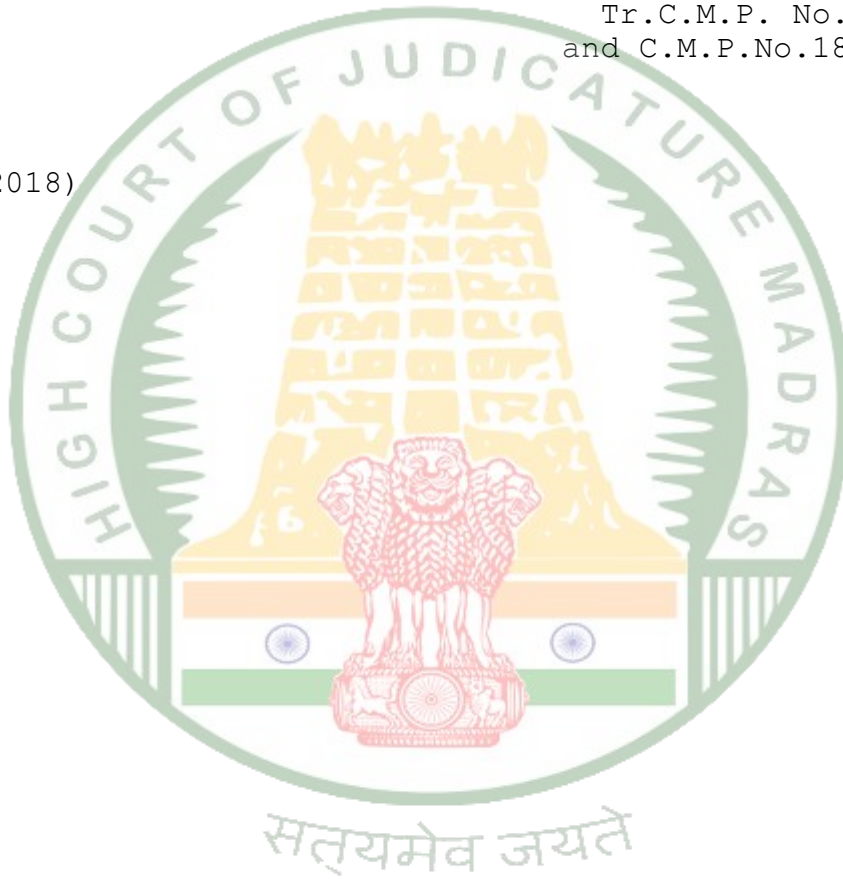
To

1.The Subordinate Judge, Poonamallee

2.The Family Judge, Vellore.

Tr.C.M.P. No.888 of 2017
and C.M.P.No.18000 of 2017

KJ(CO)
SP(19/04/2018)



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