

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.Nos.898 and 899 of 2017

Sarala Bai .. Petitioner in
both Tr.C.M.Ps.

Vs.

J.Deenadayalan .. Respondent in
both Tr.C.M.Ps.

COMMON PRAYER: Petitions filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.Nos.1232 of 2014 and 1812 of 2015 pending on the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Family Court, Tiruvallur.

For Petitioner : Mr.B.Gandhi

For Respondent : Mr.A.L.Namasivayam

C O M M O N O R D E R

These Transfer Civil Miscellaneous Petitions have been filed to withdraw H.M.O.P.Nos.1232 of 2014 and 1812 of 2015 pending on the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Family Court, Tiruvallur.

2.Both the Transfer Civil Miscellaneous Petitions are filed by the wife against the husband. According to the petitioner, they got married on 09.02.1997 at Thirurnal Thirumana Mandapam No.199, Venkatapuram, Old MTH Road, Ambattur, Tiruvallur District, Chennai 53. They have got one son aged about 19 years, studying 2nd year Engineering at SKR Engineering College, Pattai Village, Poonamallee Taluk, Tiruvallur District. The respondent filed H.M.O.P.No.1232 of 2014 on the file of the IV Additional Family Court, Chennai for dissolution of marriage, making false allegations. The petitioner filed H.M.O.P.No.1812 of 2015 before the IV Additional Family Court, Chennai for restitution of conjugal rights.

3.According to the petitioner, she is working as a teacher in the Kunnavalam Village, Union Panchayath intermediate School at Tiruvallur District, Via Thiruvalangadu and her working hours is from 9.00 a.m to 4.00 p.m and it is very difficult for her to attend the proceedings before the IV Additional Family Court, Chennai. In the circumstances, the petitioner has filed the

present Transfer Civil Miscellaneous Petitions to transfer H.M.O.P.Nos.1232 of 2014 and 1812 of 2015 from the file of the IV Additional Family Court, Chennai to the file of the Family Court, Tiruvallur.

4.The learned counsel for the respondent filed separate counter affidavit in both the Transfer Civil Miscellaneous Petitions and contended that respondent is working as a Lab Technician Grade-I in Rajiv Gandhi Government General Hospital, Chennai 600 003. The nature of his job is to attend night duty, shift duty, etc., whereas the petitioner is working as a teacher in a school and she can very well take leave and permission once in a while to attend the Court proceedings before the IV Additional Family Court, Chennai. Hence it will be very difficult for the respondent to attend each and every hearing before the Court at Tiruvallur and prayed for dismissal of both the Transfer Civil Miscellaneous Petitions.

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

6.Considering the above rival contentions and taking into consideration the 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.

7.Accordingly, both the Transfer Civil Miscellaneous Petitions are ordered. The petitions in H.M.O.P.Nos.1232 of 2014 and 1812 of 2015 are ordered to be withdrawn from the file of the IV Additional Family Court, Chennai and transferred to the file of the Family Court, Tiruvallur. The learned IV Additional Family Court Judge, Chennai is directed to transmit all the records pertaining to H.M.O.P.Nos.1232 of 2014 and 1812 of 2015 to the file of the Family Court, Tiruvallur within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The IV Additional Family Court Judge,
Chennai.

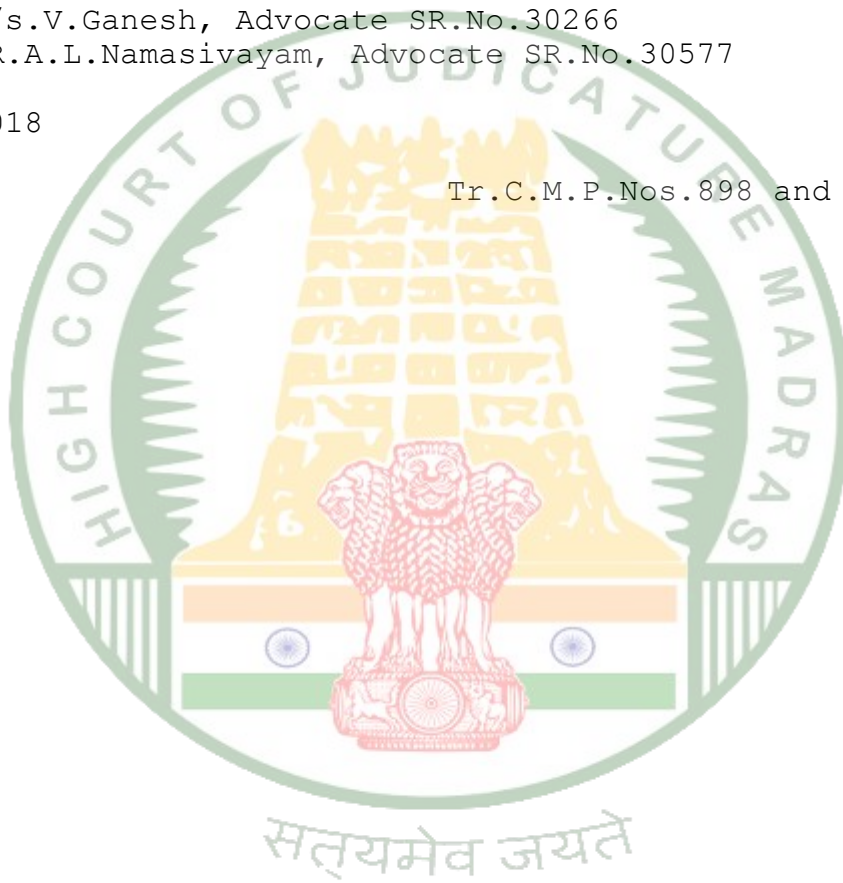
2.The Family Court Judge,
Tiruvallur.

+1cc to M/s.V.Ganesh, Advocate SR.No.30266

+1cc to MR.A.L.Namasivayam, Advocate SR.No.30577

sm:13.6.2018

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