

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.924 of 2017
and C.M.P.No.18626 of 2017

M.Karthiga

... Petitioner

Vs.

V.Jaiganesh

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.479 of 2017 pending on the file of the Sub-Court, Tambaram and transfer the same to the file of the Sub-Court, Nagapattinam, to try along with H.M.O.P.No.175 of 2017 pending on its file.

For Petitioner : M/S.A.B.Reehana Begum
For Respondent : M/S.Anuradha Balaji

O R D E R

This petition is filed to withdraw H.M.O.P.No.479 of 2017 pending on the file of the Sub-Court, Tambaram and transfer the same to the file of the Sub-Court, Nagapattinam, to try along with H.M.O.P.No.175 of 2017 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 16.05.2013 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Chennai. In the wedlock, a male child was born on 13.04.2015. The respondent and his family members ill-treated the petitioner and therefore, she left the matrimonial home along with the minor child. The respondent has filed H.M.O.P.No.479 of 2017 on the file of the Sub-Court, Tambaram, for restitution of conjugal rights, against the petitioner. The petitioner has filed H.M.O.P.No.175 of 2017 on the file of the Sub-Court, Nagapattinam, for divorce against the respondent.

3.According to the petitioner, she is residing in Nagapattinam along with her parents and minor child. The distance between Nagapattinam and Tambaram is more than 300

kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings at Tambaram, along with her minor child. Further, she is depending on her parents for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.479 of 2017 pending on the file of the Sub-Court, Tambaram, to the file of the Sub-Court, Nagapattinam, to try along with H.M.O.P.No.175 of 2017 pending on its file. The petitioner has also made various averments in the petition on merits.

4.The learned counsel for the respondent submitted that the averments made in the petition on merits are denied by the respondent and he has no objection to transfer both the cases before the Family Court, near Nagapattinam District.

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

6.Considering the above contentions of the learned counsel for the petitioner as well as the respondent and also taking into consideration that the petitioner is having 2 ½ years old child 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.479 of 2017 is ordered to be withdrawn from the file of the Sub-Court, Tambaram and transferred to the file of the Sub-Court, Nagapattinam, to be tried along with H.M.O.P.No.175 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, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.479 of 2017 to the file of the Sub-Court, Nagapattinam, 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/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Subordinate Judge, Nagapattinam.

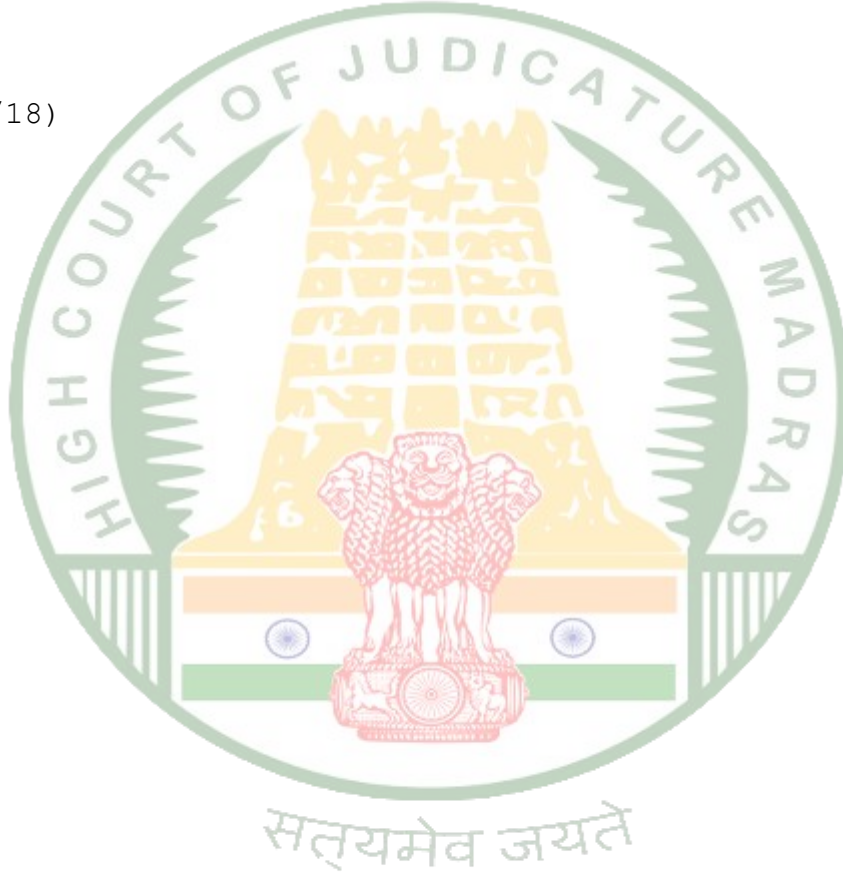
2.The Subordinate Judge, Tambaram.

+1cc to M/s.P.Veena Suresh, Advocate, sr.no.29710

Tr.C.M.P. No.924 of 2017
and C.M.P.No.18626 of 2017

SJ(CO)

RRK(22/05/18)



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