

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.949 of 2017

and C.M.P.No.19037 of 2017

Subbulakshmi

... Petitioner

Vs.

L.Nandagopal @ Narayanan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.496 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Subordinate Court, Cheyyar, to try along with H.M.O.P.No.72 of 2017 pending on its file.

For Petitioner : Mr.K.Muthusamy for
Mr.S.Makesh

For Respondent : Mr.G.Balraj

O R D E R

This petition is filed to withdraw H.M.O.P.No.496 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Subordinate Court, Cheyyar, to try along with H.M.O.P.No.72 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 05.02.2015 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Chennai. The respondent often harassed the petitioner by demanding dowry. Thereafter, with the permission of the respondent, parents of the petitioner brought her to their home for delivery. In the wedlock, a male child was born on 24.11.2015. Even after receiving information that the petitioner delivered a male child, the respondent neither visited the petitioner nor talked to her over phone. Therefore, the petitioner filed H.M.O.P.No.72 of 2017 on the file of the Subordinate Court, Cheyyar, for restitution of conjugal rights.

On receiving summons, the respondent filed H.M.O.P.No.496 of 2017 on the file of the Subordinate Court, Tambaram, for divorce against the petitioner making false allegations.

3. According to the petitioner, she is residing in a remote village near Cheyyar, along with her parents and minor child. The distance between Cheyyar and Tambaram is more than 150 kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings, along with her minor child. Further, the petitioner has no one to accompany her to go to Tambaram to attend the Court proceedings. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.496 of 2017 pending on the file of the Subordinate Court, Tambaram, to the file of the Subordinate Court, Cheyyar, to try along with H.M.O.P.No.72 of 2017 pending on its file.

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

5. Considering the above contentions of the learned counsel for the petitioner and respondent 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.496 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Tambaram and transferred to the file of the Subordinate Court, Cheyyar, to be tried along with H.M.O.P.No.72 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.496 of 2017 to the file of the Subordinate Court, Cheyyar, 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 (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Cheyyar.

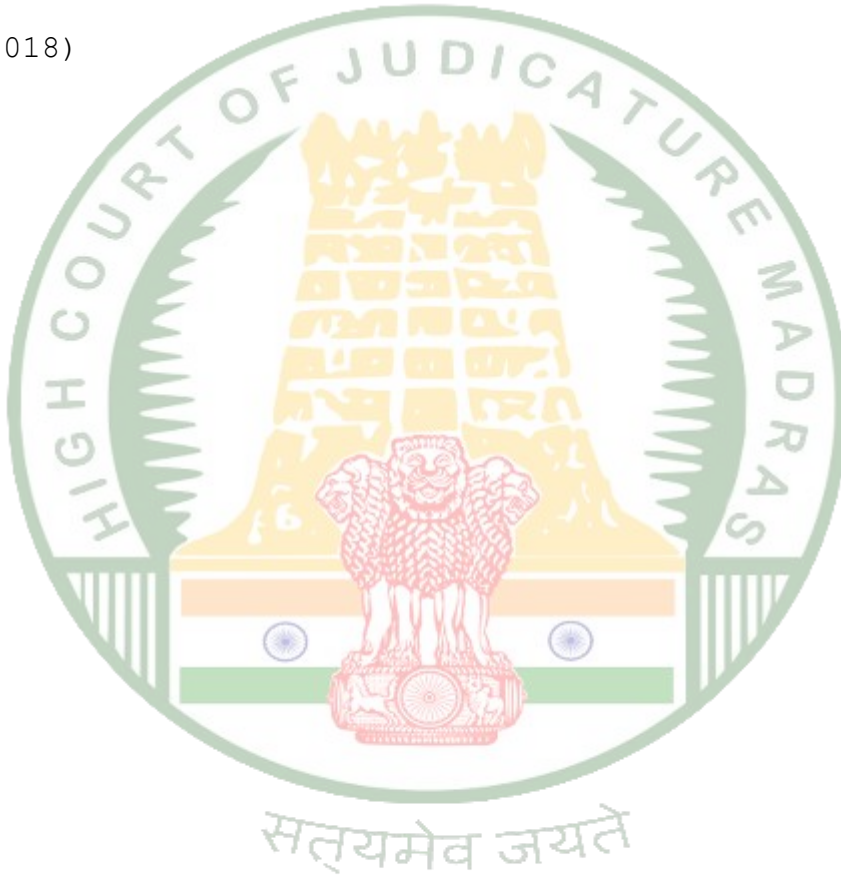
2.The Subordinate Judge, Tambaram.

+1cc to Mr.P.KARIBABU, Advocate, S.R.No.29357

+1cc to Mr.S.MAKESH, Advocate, S.R.No. 29152

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AD(CO)
TR(14/05/2018)



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