

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.959 of 2017
and C.M.P.No.19255 of 2017

1.Merlin Dhanasaila

2.Johan (Minor)

(represented through his
mother and natural guardian/
first petitioner)

.. Petitioners

Vs.

A.V.Raja @ David Raja @ Nagaraj

... Respondent

Prayer:-

Petition is filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.960 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Principal District Court, Tiruppur, to be tried along with I.D.O.P.No.70 of 2015 pending on its file.

For Petitioners : Mr.R.Lakshmi Narayanan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw I.D.O.P.No.960 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Principal District Court, Tiruppur, to be tried along with I.D.O.P.No.70 of 2015 pending on its file.

2.The first petitioner is the wife, respondent is the husband and second petitioner is their minor son. The marriage between the first petitioner and respondent was conducted on 18.12.2009. In the wedlock, a male child was born on 20.03.2014. The respondent tortured the first petitioner demanding dowry and thrown her out from the matrimonial home. The first petitioner

filed I.D.O.P.No.70 of 2015 on the file of the Principal District Court, Tiruppur, for divorce against the respondent. On receipt of summons, the respondent has filed I.D.O.P.No.960 of 2017 on the file of the Additional Family Court, Coimbatore, for restitution of conjugal rights.

3. According to the first petitioner, she is working and residing at Tiruppur along with her minor son. The distance between Tiruppur and Coimbatore is more than 50 kilometers and hence, it will be very difficult for her to travel such a long distance to attend each and every hearing before Family Court, Coimbatore. In the circumstances, the petitioners have come out with the present Transfer Civil Miscellaneous Petition to transfer I.D.O.P.No.960 of 2017 pending on the file of the Additional Family Court, Coimbatore to the file of the Principal District Court, Tiruppur, to try along with I.D.O.P.No.70 of 2015 filed by the first petitioner.

4. Heard the learned counsel for the petitioners and perused the materials available on record. This Court permitted the petitioner to serve the counsel, who is appearing for the respondent before the Trial Court and he has filed affidavit of service. Though the Registry has printed the name of the respondent as well as the counsel, who is appearing for the respondent before the trial Court, today there is no representation on behalf of the respondent either in person or through counsel.

5. Considering the above contention of the learned counsel for the petitioners 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in I.D.O.P.No.960 of 2017 is ordered to be withdrawn from the file of the Additional Family Court, Coimbatore and transferred to the file of the Principal District Court, Tiruppur, to be tried along with I.D.O.P.No.70 of 2015 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, Additional Family Court, Coimbatore, is directed to transmit all the records pertaining to I.D.O.P.No.960 of 2017 to the file of the Principal District

Court, Tiruppur, 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/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

LPP/kj

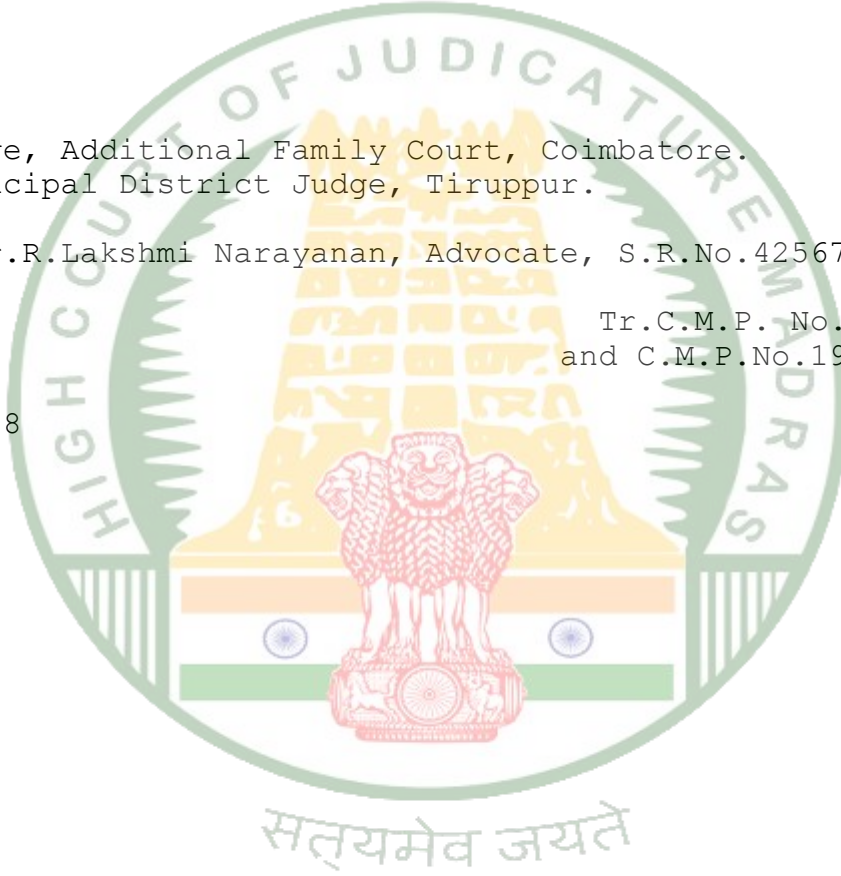
To

- 1.The Judge, Additional Family Court, Coimbatore.
- 2.The Principal District Judge, Tiruppur.

+1cc to Mr.R.Lakshmi Narayanan, Advocate, S.R.No.42567

Tr.C.M.P. No.959 of 2017
and C.M.P.No.19255 of 2017

CS/19/07/18



WEB COPY