

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.973 of 2017
and C.M.P.No.19655 of 2017

B.Gomathi

... Petitioner

Vs.

S.Sivabalan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.3540 of 2017 pending on the file of the VI Additional Family Court, Chennai and transfer the same to the file of the Principal Family Court, Coimbatore, to try along with H.M.O.P.No.977 of 2017 pending on its file.

For Petitioner : Mr.E.Sathiyaraj
For Respondent : Mr.C.Munusamy

O R D E R

This petition is filed to withdraw H.M.O.P.No.3540 of 2017 pending on the file of the VI Additional Family Court, Chennai and transfer the same to the file of the Principal Family Court, Coimbatore, to try along with H.M.O.P.No.977 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 02.05.2015 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home in Chennai. In the wedlock, a male child was born on 18.02.2016. Due to difference of opinion between the petitioner and respondent, they are living separately. The petitioner has filed H.M.O.P.No.977 of 2017 on the file of the Principal Family Court, Coimbatore, for restitution of conjugal rights and stated that on receiving summons in the said H.M.O.P.No.977 of 2017, the respondent has filed H.M.O.P.No.3540 of 2017 on the file of the VI Additional Family Court, Chennai, for divorce against the petitioner making false allegations.

3. According to the petitioner, she is residing at Coimbatore along with her minor child with her parents. The

distance between Coimbatore and Chennai is more than 500 kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings at Chennai, along with her minor child. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.3540 of 2017 pending on the file of the VI Additional Family Court, Chennai to the file of the Principal Family Court, Coimbatore, to try along with H.M.O.P.No.977 of 2017 pending on its file.

4.The learned counsel for the respondent submitted that the respondent denied the allegations made by the petitioner and prayed for dismissal of the transfer petition.

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 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.3540 of 2017 is ordered to be withdrawn from the file of the VI Additional Family Court, Chennai and transferred to the file of the Principal Family Court, Coimbatore, to be tried along with H.M.O.P.No.977 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned VI Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.3540 of 2017 to the file of the Principal Family Court, Coimbatore, 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 II)

//True copy//

Sub Assistant Registrar

kj/LPP

To

1.The VI Additional Judge,
Family Court, Chennai.

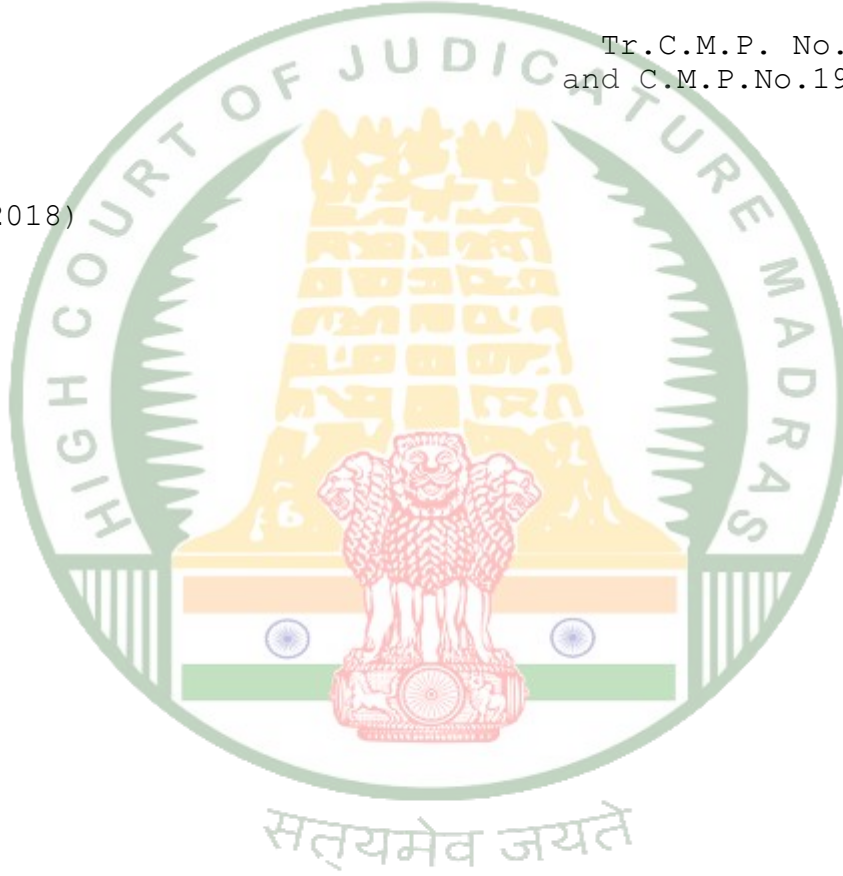
2.The Judge,
Principal Family Court, Coimbatore.

+lcc to Mr.C.Munusamy, Advocate SR.No.29117

+lcc to Mr.E.Sathiyaraj, Advocate SR.No.29133

Tr.C.M.P. No.973 of 2017
and C.M.P.No.19655 of 2017

AD(CO)
GN(16/05/2018)



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