

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1 of 2018
and
C.M.P. No.2 of 2018

Carolyn Sharmila ... Petitioner/Respondent

Vs.

Earnest Immanuel ... Respondent/Petitioner

Prayer:-

Petition is filed under Section 24 of C.P.C., to withdraw and transfer the case pending on the file of the learned Principal District Judge, Trichi in I.D.O.P.No.44 of 2017 to any other appropriate court at Chennai.

For Petitioner : Mr.N. Umapathi

For Respondent : M/s. A. Mohamed Ismail

ORDER

This petition is filed to withdraw and transfer the case pending on the file of the learned Principal District Judge, Trichi in I.D.O.P.No.44 of 2017 to any other appropriate court at Chennai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnised on 16.09.2005 as per Christian rites and customs. In the wedlock, a female child was born on 30.06.2006. The respondent by demanding dowry tortured the petitioner and filed a petition in I.D.O.P No.44 of 2017 before the Principal District Judge, Trichy for divorce.

3. According to the petitioner, she is working as a Teacher at Chennai and is residing at Chennai. The distance between Chennai and Trichy is more than 300 kilometers and hence, it will be 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 I.D.O.P.No.44 of 2017 pending on the file of the Principal District Judge, Trichy, to any other appropriate court in Chennai.

4. The learned counsel for the respondent submitted that in I.D.O.P No.44 of 2017, the petitioner was set ex-parte on 12.12.2017 and the petitioner has filed an application to set aside the ex-parte order and the same is pending. While no orders have been passed, setting aside the ex-parte order dated 12.12.2017, the petitioner has come up with this Transfer petition and hence prayed for dismissal of this Tr.CMP.

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

6. Considering the above submissions of the learned counsel for the petitioner 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. In view of the above, the Transfer Civil Miscellaneous Petition is ordered. The petition in I.D.O.P.No.44 of 2017 along with the Interlocutory Application filed for setting aside the ex-parte order dated 12.12.2017, is ordered to be withdrawn from the file of the learned Principal District Judge, Trichy and transferred to the file of the Principal Family Court, Chennai. The learned Principal District Judge, Trichy, is directed to transmit all the records pertaining to I.D.O.P.No.44 of 2017 to the file of the Principal Family Court, Chennai, 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(CO)

//True Copy//

Sub Assistant Registrar

avr

To

1.The Principal District Judge, Trichy.

2.The Principal Judge, Family Court, Chennai.

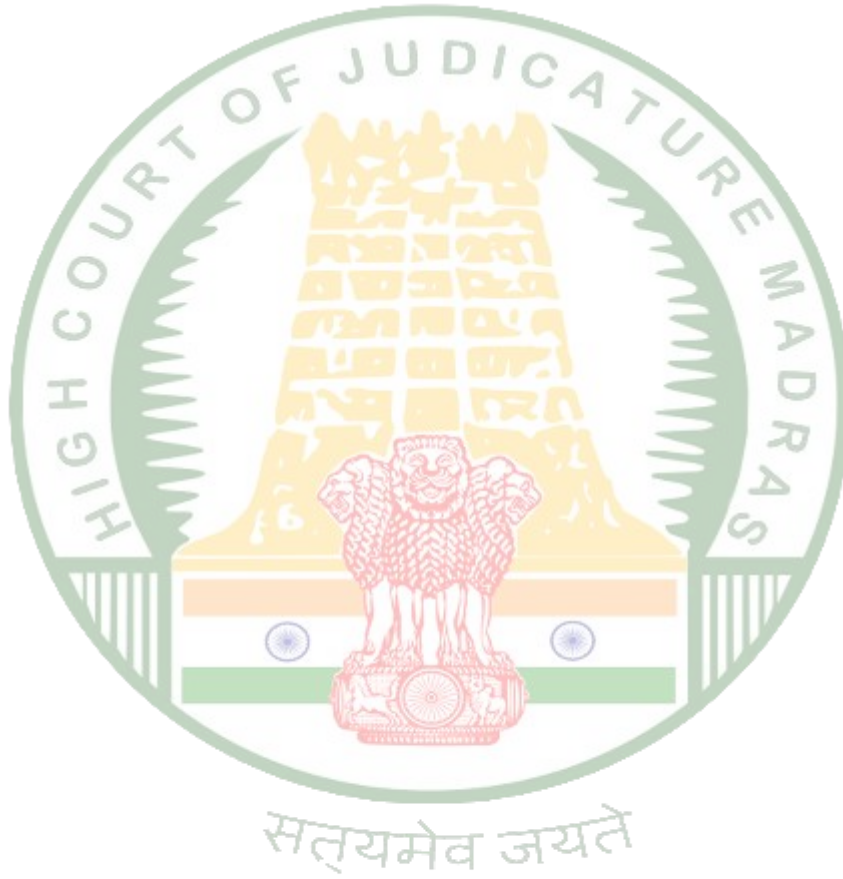
+lcc to Mr.N. Umapathi, Advocate, S.R.No.36142

+lcc to M/s. A. Mohamed Ismail, Advocate, S.R.No.36955

Tr.C.M.P. No.1 of 2018
and

C.M.P. No.2 of 2018

SSD (CO)
CS/12/07/18



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