

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.102 of 2018
and C.M.P.No.3032 of 2018

Priyadharsini

... Petitioner/Respondent

Vs.

Bathmanaban

... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw M.O.P.No.393 of 2017 pending on the file of the Family Court, Puducherry and transfer the same to any one of the Family Court in Chennai.

For Petitioner : Mr.K.V.Muthu Visakan

For Respondent : Mr.R.Suresh Babu

O R D E R

This petition is filed to withdraw M.O.P.No.393 of 2017 pending on the file of the Family Court, Puducherry and transfer the same to any one of the Family Court in Chennai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 15.11.2015 as per Hindu rites and customs. Due to dispute, both of them are living separately. The respondent is working at Anna University, College of Engineering, Thirukuvalai, Nagapattinam District. Due to the ill advise of his parents, the respondent pledged all the jewels of the petitioner. The petitioner informed the same to her father and a complaint was lodged on 21.08.2017 before Superintendent of Police, Cuddalore by her father. The petitioner also lodged a complaint on 11.09.2017. Suppressing all these facts, in order to escape from the criminal case, the respondent filed M.O.P.No.393 of 2017 before the Family Court at Puducherry, for divorce, only to harass the petitioner. On 19.01.2018, the petitioner appeared before the Family Court, Puducherry.

3. According to the petitioner, she is working in a private company at Chennai and it is very difficult for her to travel from Chennai to Puducherry to appear before the Family Court for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. for

transfer of M.O.P.No.393 of 2017 from the file of the Family Court, Puducherry to any one of the Family Court at Chennai.

4. The respondent filed counter affidavit. The learned counsel for the respondent submitted that only to harass the respondent, the petitioner has come out with the present Transfer Civil Miscellaneous Petition. The learned counsel further submitted that it would be very difficult for the respondent to travel from Puducherry to Chennai for each and every hearing and prayed for dismissal of the Transfer Civil Miscellaneous Petition. He also prayed for early disposal of M.O.P.No.393 of 2017.

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

6. It is well settled law that whenever the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by 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]. Further as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

7. Having regard to the submissions made by the learned counsel for the petitioner and the decisions of the Hon'ble Apex Court referred to above and the residence of the petitioner in Chennai, the petition in M.O.P.No.393 of 2017 is ordered to be withdrawn from the file of the Family Court, Puducherry and transferred to the file of the Principal Family Court, Chennai. The learned Family Court Judge, Puducherry, is directed to transmit all the records pertaining to M.O.P.No.393 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. On receipt of the records, the learned Principal Judge, Family Court, Chennai is directed to dispose of the case, as expeditiously as possible, in any event not later than six months from the date of receipt of a copy of this order.

8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Judge
Family Court Judge
Puducherry.

2.The Principal Judge,
Family Court,
Chennai.

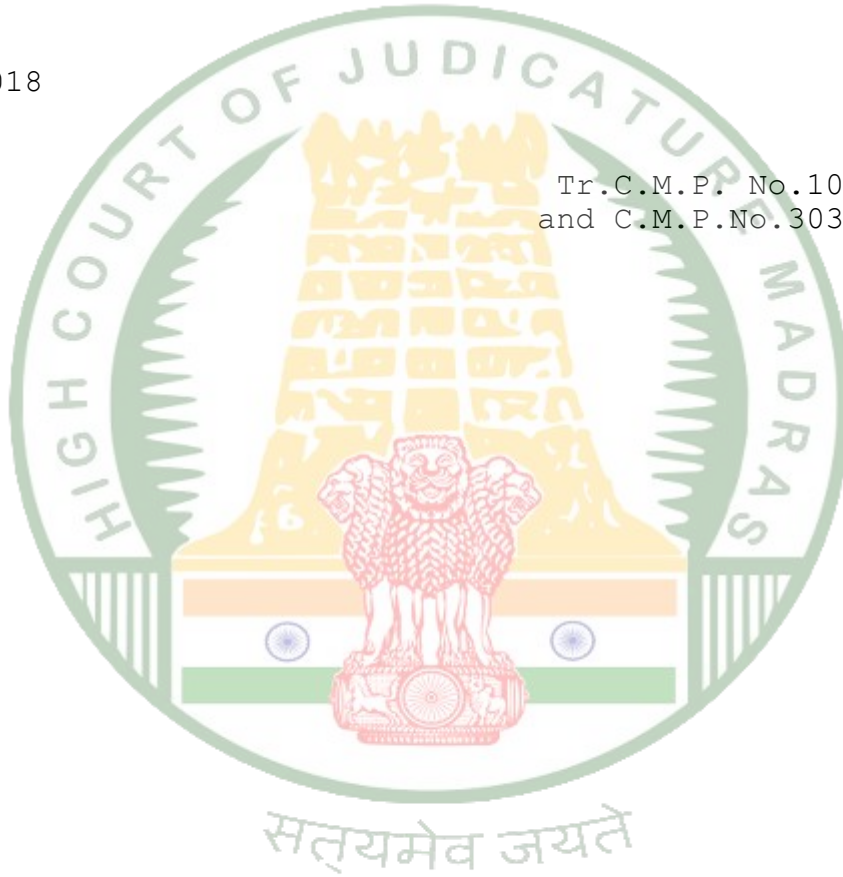
+lcc to Mr.K.V.Muthu Visakan, Advocate Sr.No.26173

+lcc to Mr.Suresh Babu, Advocate Sr.No.26209

KK(CO)

sm:26.4.2018

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