

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.140 of 2018
and C.M.P.No.3760 of 2018

S.Arthisri

... Petitioner

Vs.

S.Ajesh Raghav

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1689 of 2017 pending on the file of the Family Court, Coimbatore and transfer the same to the file of the Sub Court, Harur, to try along with H.M.O.P.No.98 of 2017 pending on its file.

For Petitioner : Mr.V.R.Annagandhi
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.1689 of 2017 pending on the file of the Family Court, Coimbatore and transfer the same to the file of the Sub Court, Harur, to try along with H.M.O.P.No.98 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 09.12.2013 as per Hindu rites and customs. In the wedlock, a female child was born on 29.02.2016. Thereafter, the petitioner unable to bear the cruelty committed by the respondent and his parents, left the matrimonial home.

3.According to the petitioner, the respondent on receipt of notice in the H.M.O.P.No.98 of 2017 filed by the petitioner before the Sub Court, Harur, for divorce, filed H.M.O.P.No.1689 of 2017 on the file of the Family Court, Coimbatore, for restitution of conjugal rights. She is residing at Kambainallur, Dharmapuri District, along with her minor child and parents. The distance between Kambainallur and Coimbatore is more than 300 kilometers and hence, it will be very difficult for the petitioner to travel such a long distance to attend each and every hearing. The petitioner has no one to accompany her to go to Coimbatore and she has to stay atleast two days in Coimbatore to attend the Court proceedings and spend considerable amount. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.1689 of 2017

pending on the file of the Family Court, Coimbatore, to the file of the Sub Court, Harur, to try along with H.M.O.P.No.98 of 2017 pending on its file.

4.On 12.06.2018, when the Transfer Petition was taken up for hearing, the learned counsel for the respondent contended that when the respondent attended the Court proceedings before the Sub Court, Harur, he was assaulted by the petitioner and her parents. He also contended that the respondent lodged a complaint against the petitioner and her parents. The Transfer Petition was directed to be posted today to enable the learned counsel for the respondent to produce the document to substantiate his case. Today, when the matter is taken up for hearing, there is no representation on behalf of the respondent and the respondent has not produced any document to substantiate his contention.

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

6.Considering the contention of the learned counsel for the petitioner and the difficulty expressed by the petitioner to travel from Kambainallur, Dharmapuri District to Coimbatore 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.1689 of 2017 is ordered to be withdrawn from the file of the Family Court, Coimbatore and transferred to the file of the Sub Court, Harur, to be tried along with H.M.O.P.No.98 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, Family Court, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.1689 of 2017 to the file of the Sub Court, Harur, 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(CCC)

//True Copy//

Sub Assistant Registrar

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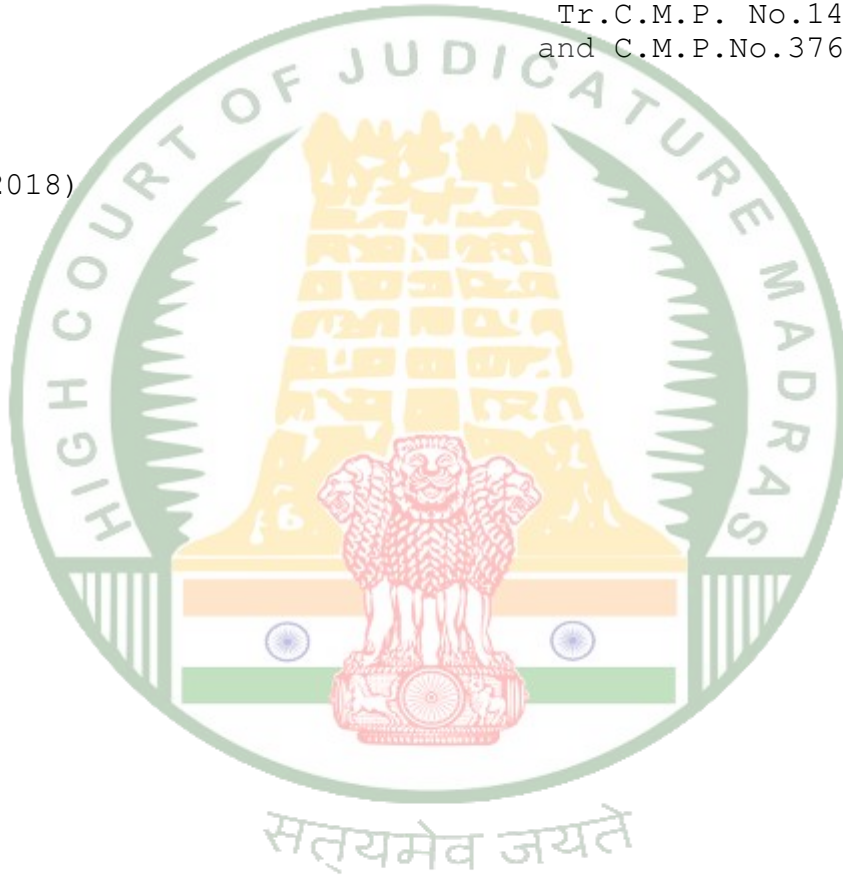
1.The Subordinate Judge, Harur.

2.The Judge, Family Court, Coimbatore.

+ 1 cc to Mr. V.R. Annagandhi, Advocate Sr.37294

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(CCC)
EU(03/07/2018)



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