

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.165 of 2018
and C.M.P.No.4415 of 2018

V.Vedagayathri

... Petitioner/Respondent

Vs.

G.Logesh

... Respondent/Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.269 of 2016 pending on the file of the Sub-Court, Tambaram and transfer the same to the file of the Sub-Court, Ponneri, to try along with H.M.O.P.No.39 of 2016 pending on its file.

For Petitioner : Mr.P.Balamurugan
For Respondent : Mr.D.Saravanan
for Mr.Thomas T.Jacob

O R D E R

This petition is filed to withdraw H.M.O.P.No.269 of 2016 pending on the file of the Sub-Court, Tambaram and transfer the same to the file of the Sub-Court, Ponneri, to try along with H.M.O.P.No.39 of 2016 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 29.05.2015 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Adambakkam in Chennai. Due to difference of opinion, the petitioner and respondent are living separately. The petitioner filed H.M.O.P.No.39 of 2016 on the file of the Sub-Court, Ponneri, against the respondent, for annulling the marriage between the petitioner and respondent. The respondent filed H.M.O.P.No.269 of 2016 on the file of the Sub-Court, Tambaram, for restitution of conjugal rights, against the petitioner, making various allegations.

3.According to the petitioner, she is residing at Padiyanallur, Tiruvallur District, along with her parents. The distance between her residence and Tambaram is more than 35 kilometers and being a lady, it is very difficult for her to go to Tambaram to attend the Court proceedings. Further, she is not

having any independent income and she is depending on her parents for her day-to-day expenses and travelling expenses. Unless both the H.M.O.Ps. are heard together and decided jointly, there will be conflicting judgments. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.269 of 2016 pending on the file of the Sub-Court, Tambaram, to the file of the Sub-Court, Ponneri, to try along with H.M.O.P.No.39 of 2016 pending on its file.

4.The learned counsel for the respondent submitted that it will not be difficult for the petitioner to attend the Court at Tambaram 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 contention 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.269 of 2016 is ordered to be withdrawn from the file of the Sub-Court, Tambaram and transferred to the file of the Sub-Court, Ponneri, to be tried along with H.M.O.P.No.39 of 2016 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.269 of 2016 to the file of the Sub-Court, Ponneri, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Subordinate Judge, Ponneri, is directed to dispose of the case as expeditiously as possible in any event not later than 31.12.2018. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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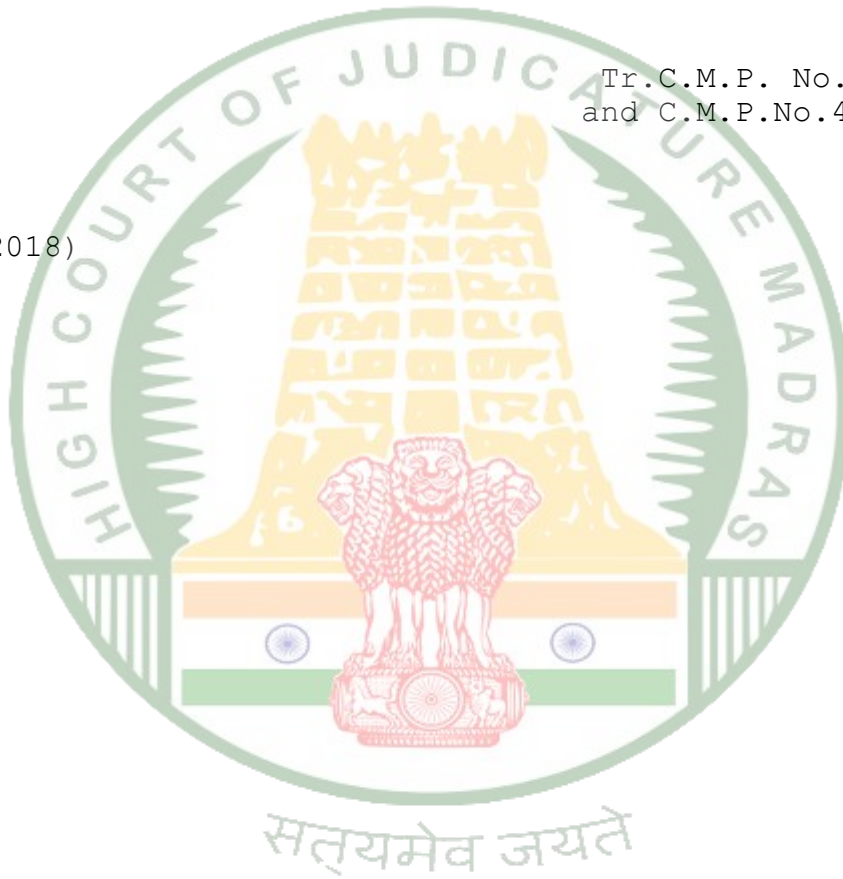
1.The Subordinate Judge, Ponneri.

2.The Subordinate Judge, Tambaram.

+1 CC to Mr.P. Balamurugan, advocate sr 31633

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VGI (CO)
SP(29/05/2018)



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