

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.176 of 2018
and C.M.P.No.4742 of 2018

S.Ramya

.. Petitioner

Vs.

B.Balamurugan

.. Respondent

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.2046 of 2017 pending on the file of the Family Court-III, Chennai and transfer the same to the file of the Sub Court, Pattukottai to be tried along with H.M.O.P.No.51 of 2017.

For Petitioner : Mr.M.Krishnamoorthy

For Respondent : Mr.P.Suresh Srinivasan

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.2046 of 2017 pending on the file of the Family Court-III, Chennai and transfer the same to the file of the Sub Court, Pattukottai to be tried along with H.M.O.P.No.51 of 2017.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 25.04.2016 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Arumbakkam, Chennai. Due to difference of opinion, both of them are living separately. While so, the respondent filed H.M.O.P.No.2046 of 2017 before the Family Court-III, Chennai for divorce.

3.According to the petitioner, she is residing at Pattukottai. She has filed H.M.O.P.No.51 of 2017 before the Sub Court, Pattukottai for restitution of conjugal rights. Since the distance between Pattukottai and Chennai is 395 kms, it will be very difficult for the petitioner to travel such a long distance as she also has no one to accompany her. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition

to transfer H.M.O.P.No.2046 of 2017 pending on the file of the Family Court-III, Chennai to the file of the Sub Court, Pattukottai to be tried along with H.M.O.P.No.51 of 2017 in order to avoid conflicting decisions being delivered by two different Courts.

4.The learned counsel for the respondent submitted that the petitioner left the matrimonial home on her own will and only to harass the petitioner, she has come out with the present Transfer Civil Miscellaneous Petition and prayed for dismissal of the same.

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 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.2046 of 2017 is ordered to be withdrawn from the file of the Family Court-III, Chennai and transferred to the file of the Sub Court, Pattukottai to be tried along with H.M.O.P.No.51 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-III, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.2046 of 2017 to the file of the Sub Court, Pattukottai 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 IV)

//True copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge,
Pattukottai.

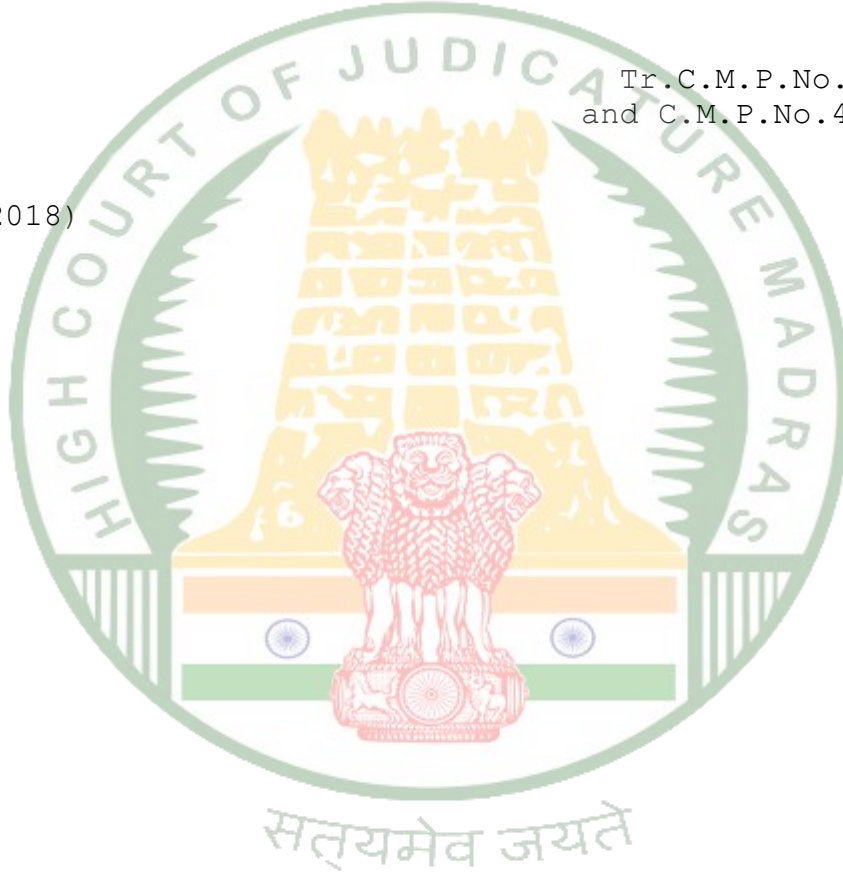
2.The Judge,
Family Court-III,
Chennai.

+lcc to Mr.Krishnamoorthy, Advocate SR.No.37432

+lcc to Mr.P.Suresh Srinivasan, Advocate SR.No.37395

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GN(02/07/2018)



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