

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.183 of 2018

and C.M.P.No.4881 of 2018

Divya

... Petitioner

Vs.

D.Senthilkumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1106 of 2017 pending on the file of the III Additional Family Court, Chennai and transfer the same to the file of the Subordinate Court, Tiruttani.

For Petitioner : Mr.M.N.Kathir

For Respondent : Mr.M.Selvam

O R D E R

This petition is filed to withdraw H.M.O.P.No.1106 of 2017 pending on the file of the III Additional Family Court, Chennai and transfer the same to the file of the Subordinate Court, Tiruttani.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 15.09.2014 as per Hindu rites and customs. In the wedlock, a female child was born, and she is aged about 3 years old. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.1106 of 2017 on the file of the III Additional Family Court, Chennai, for divorce against the petitioner making false allegations.

3. According to the petitioner, she is residing along with her parents in Tiruttani with her minor child. She is not having any independent income. The distance between Tiruttani and Chennai is more than 100 kilometers and hence, it is very difficult for her to travel 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 H.M.O.P.No.1106 of 2017 pending on the file of the III

Additional Family Court, Chennai, to the file of the Subordinate Court, Tiruttani.

The learned counsel appearing for the respondent submitted that the respondent is working as Office Assistant in ESI Hospital and he has to take care of his mother. It will be very difficult for him to travel to Subordinate Court, Tiruttani along with his aged mother and prayed for dismissal of Tr.C.M.P.No.183 of 2018.

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

5. 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.

6. 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 residence of the petitioner is at Tiruttani, the petition in H.M.O.P.No.1106 of 2017 is ordered to be withdrawn from the file of the III Additional Family Court, Chennai and transferred to the file of the Subordinate Court, Tiruttani. The learned III Additional Judge, Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.1106 of 2017 to the file of the Subordinate Court, Tiruttani, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the learned Subordinate Judge, Tiruttani 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.

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

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

LPP/mps

To

1.The III Additional Judge, Family Court, Chennai.

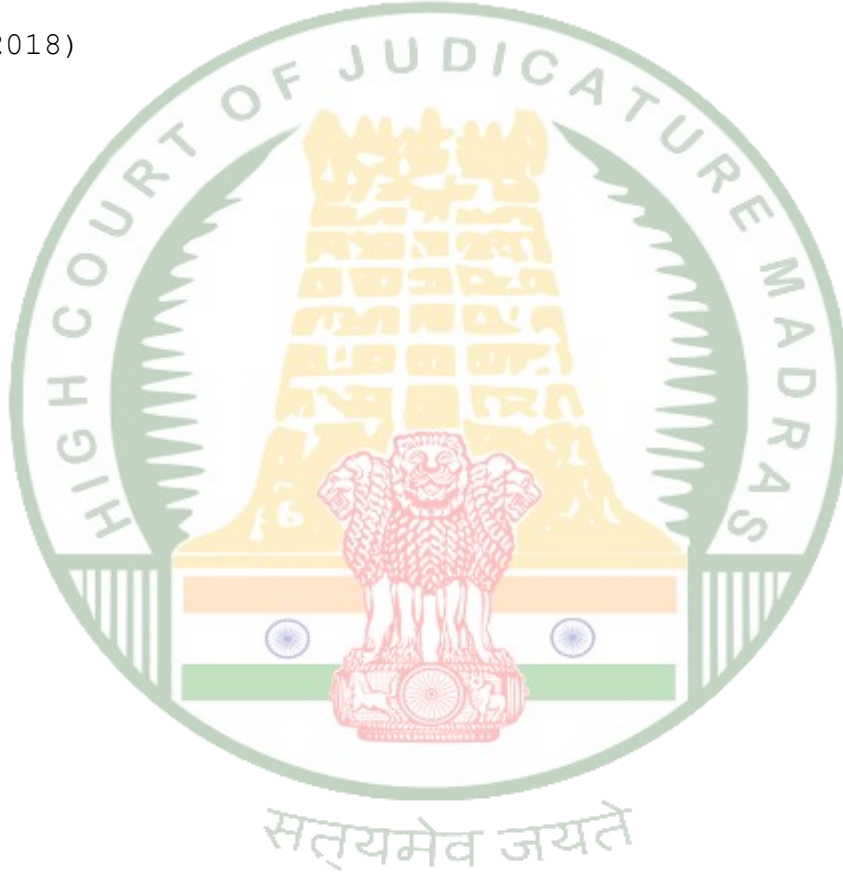
2.The Subordinate Judge, Tiruttani.

+1cc to Mr.M.SELVAM, Advocate, S.R.No.30911

+1cc to Mr.G.PAVENDHAN, Advocate, S.R.No. 30591

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TR(27/04/2018)



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