

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.212 of 2018
and C.M.P.No.5436 of 2018

R.Vidhyalakshmi

... Petitioner

Vs.

V.Vijendiran

.... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.901 of 2017 pending on the file of Sub Court, Tambaram and transfer the same to the file of Family Court, Erode.

For Petitioner : Ms.Sangeetha Rajkumar
For Respondent : Mr.Dinesh Babu
for Mr.S.V.Udayakumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.901 of 2017 pending on the file of Sub Court, Tambaram and transfer the same to the file of Family Court, Erode.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 06.02.2017 as per Hindu rites and customs. The respondent and his family members tortured the petitioner and thrown her out from the matrimonial home. While so, the respondent filed H.M.O.P.No.901 of 2017 on the file of Sub Court, Tambaram for restitution of conjugal rights. The petitioner filed F.C.O.P.No.61 of 2018 on the file of the Family Court, Erode for divorce.

3.According to the petitioner, she is residing at Erode along with her parents. Her father is physically challenged person. The distance between Erode and Tambaram is more than 380 kilometers and hence, being a lady, it will be very difficult for her to travel such a long distance to attend each and every hearings without assistance. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to

transfer H.M.O.P.No.901 of 2017 pending on the file of Sub Court, Tambaram to the file of the Family Court at Erode.

4.The learned counsel for the respondent submitted that the respondent's parents are aged people and hence, if H.M.O.P.No.901 of 2017 is transferred to Family Court at Erode, it will be very difficult for him to attend each and every hearing, leaving behind his aged parents alone at home and prayed for dismissal of the Transfer Civil Miscellaneous 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 the 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.901 of 2017 is ordered to be withdrawn from the file of Sub Court, Tambaram and transferred to the file of Family Court, Erode, to be tried along with F.C.O.P.No.61 of 2018, in order to avoid multiplicity of proceedings and conflicting decisions being rendered by two different Courts. The learned Subordinate Judge, Tambaram is directed to transmit all the records pertaining to H.M.O.P.No.901 of 2017 to the file of the Family Court at Erode, 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.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

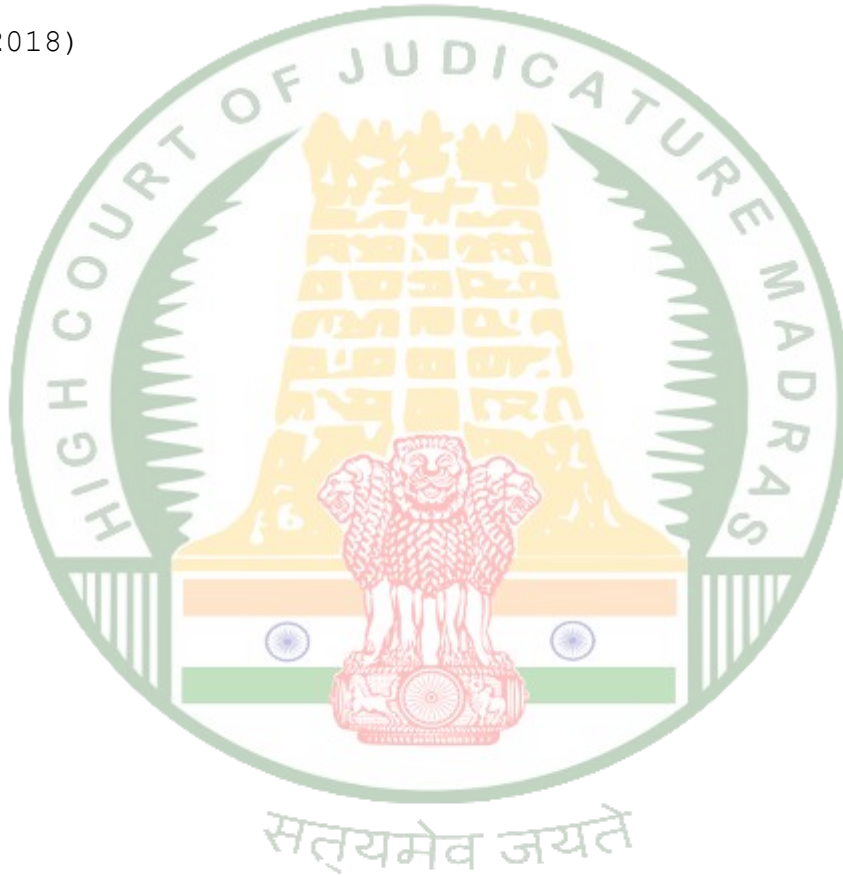
1.The Subordinate Judge, Tambaram.

2.The Judge, Family Court, Erode.

+1 CC to Mr.S.V. Udayakumar, Advocate sr 49602.

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SP(16/08/2018)



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