

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI+

Tr.C.M.P. No.214 of 2018
and C.M.P.No.5446 of 2018

S.Vigneswari

... Petitioner

Vs.

R.Mani @ Sivakumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1220 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Family Court, Erode.

For Petitioner : Mr.V.Regunathan

For Respondent : Mr.V.Janarthanan

O R D E R

This petition is filed to withdraw H.M.O.P.No.1220 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Family Court, Erode.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 21.08.2016 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Coimbatore. Due to dispute, the respondent has thrown out the petitioner from the matrimonial home. While so, the respondent filed H.M.O.P.No.1220 of 2017 on the file of the Additional Family Court, Coimbatore, for divorce against the petitioner. The petitioner filed M.C.No.35 of 2017 claiming maintenance on the file of the Family Court, Erode, against the respondent and the same is pending.

3. According to the petitioner, she is residing in her parents home at Erode. The distance between Erode and Coimbatore is more than 90 kilometers and being a lady, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Coimbatore for each and every hearing. She has no one to accompany her to go to Coimbatore to attend the Court proceedings, as her parents are aged persons. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.1220 of 2017 pending on the file of the Additional Family Court, Coimbatore, to the file of Family Court, Erode.

4. The learned counsel for the respondent submitted that the respondent is residing at Coimbatore and hence, it will be difficult for him to go to Erode to attend the Court proceedings for each and every hearing 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.1220 of 2017 is ordered to be withdrawn from the file of the Additional Family Court, Coimbatore and transferred to the file of the Family Court, Erode, to be tried along with M.C.No.35 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings. The learned Additional Judge, Family Court, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.1220 of 2017 to the file of the Family Court, 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.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

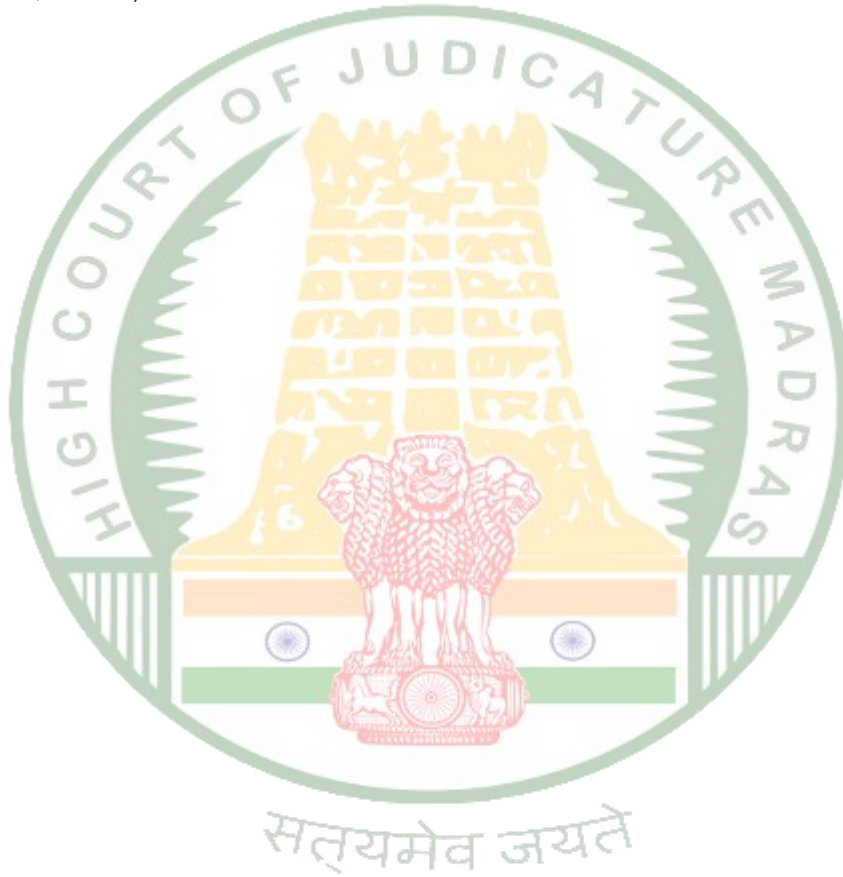
1.The Additional Judge, Family Court, Coimbatore.

2.The Judge, Family Court, Erode.

+1 cc to M/S.V/REGUNATHAN Advocate SR.NO. 47136

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ASK(28/08/2018)



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