

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.228 of 2018

S.Deepa

... Petitioner

Vs.

J.Vijay

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw D.O.P.No.993 of 2017 pending on the file of Family Court, Coimbatore and transfer the same to the file of Principal District Court, Nagercoil, Kanyakumari District.

For Petitioner : Mr.P.Chandrasekar
For Respondent : Ms.Parvinbanu
for Mr.S.Selvathirumurugan

O R D E R

This petition is filed to withdraw D.O.P.No.993 of 2017 pending on the file of Family Court, Coimbatore and transfer the same to the file of Principal District Court, Nagercoil, Kanyakumari District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 15.05.2015 as per Christian Rites and Customs. In the wedlock, a male child was born on 16.05.2016. Due to various misunderstanding between the petitioner and respondent, the petitioner left the matrimonial home and residing with her parents at Nagercoil. She lodged a complaint under Domestic Violence Act in D.V.A.No.17 of 2017 before the Judicial Magistrate No.II, Nagercoil, Kanyakumari District and the same is pending. While so, the respondent filed D.O.P.No.993 of 2017 on the file of the Family Court, Coimbatore against the petitioner for restitution of conjugal rights.

3.According to the petitioner, she is residing at Nagercoil along with her parents and minor child. Being a lady, it will be very difficult for her to travel from Nagercoil to Coimbatore to attend each and every hearings along with the minor child. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer D.O.P.No.993 of 2017 pending on the file of Family Court, Coimbatore to the file of

the Principal District Court, Nagercoil, Kanyakumari District.

4.The learned counsel for the respondent submitted that in D.O.P.No.993 of 2017 itself, the respondent has stated that there is life threat to the respondent and the petitioner detained the respondent and his family members. On the complaint to the neighbours, they were rescued 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.The contention of the learned counsel for the petitioner is that the petitioner is residing at Nagercoil and it will be very difficult for her to travel from Nagercoil to Coimbatore to attend each and every hearing. The contention of the learned counsel for the respondent is that there is life threat by the family members of the petitioner. The respondent has not filed any documents to prove this contention.

7.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.

8.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in D.O.P.No.993 of 2017 is ordered to be withdrawn from the file of Family Court, Coimbatore and transferred to the file of Principal District Court, Nagercoil, Kanyakumari District. The learned Judge, Family Court, Coimbatore is directed to transmit all the records pertaining to D.O.P.No.993 of 2017 to the file of the Principal District Court, Nagercoil, Kanyakumari District, within a period of two weeks from the date of receipt of a copy of this order. No costs.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

gsa

To

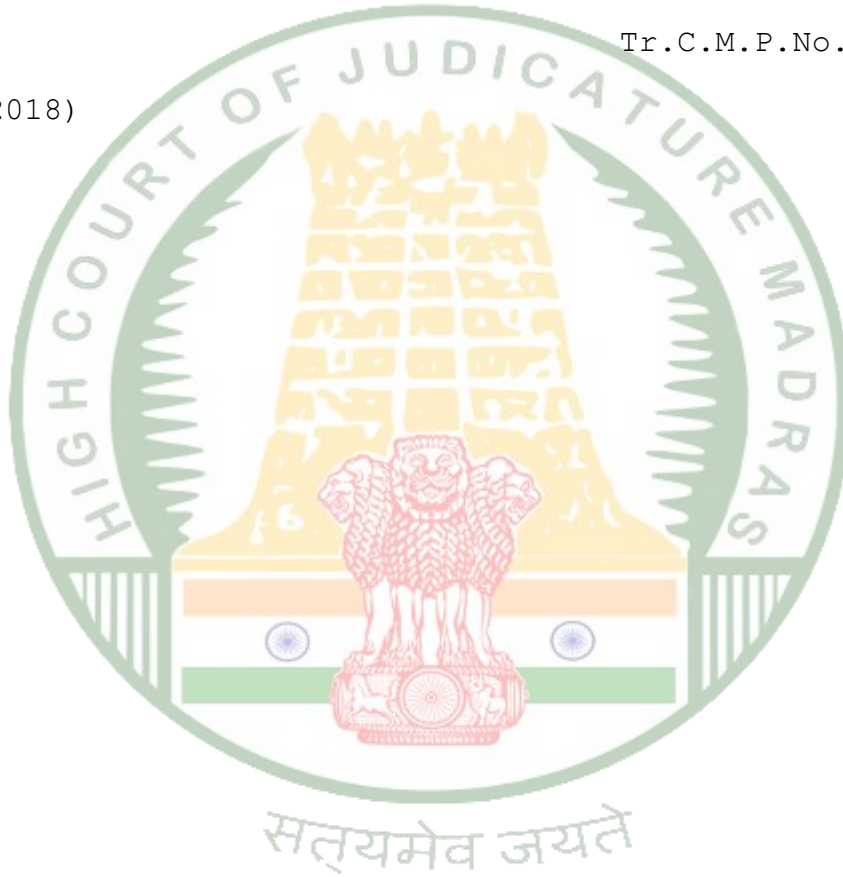
1.The Judge, Family Court, Coimbatore.

2.The Judge, Principal District Court,
Nagercoil, Kanyakumari District.

+1 CC to Mr.K.C. Karl Mark, Advocate sr 50125.

Tr.C.M.P.No.228 of 2018

SP(03/09/2018)



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