

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.241 of 2018

and C.M.P.No.6087 of 2018

SP.Shanthi

... Petitioner

Vs.

SM.Meyyappan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw O.P.No.663 of 2018 pending on the file of II Additional Family Court, Chennai and transfer the same to the file of any other competent Court at Coimbatore.

For Petitioner : Mr.Vijayakumaran

For Respondent : Mr.M.Suresh Kumar
for Mr.G.Rm.Palaniappan

O R D E R

This petition is filed to withdraw O.P.No.663 of 2018 pending on the file of II Additional Family Court, Chennai and transfer the same to the file of any other competent Court at Coimbatore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 27.08.2010 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Velacherry, Chennai. The respondent tortured the petitioner demanding dowry and hence, the petitioner left the matrimonial home. She lodged a complaint before the Commissioner of police on 27.09.2012 and the same was forwarded to Assistant Commissioner of Police, Anti Dowry Cell, Thousand lights, Chennai. The petitioner has also gave a complaint to the District Social Welfare Officer, Coimbatore under the Domestic Violence Act and the same is pending. The respondent to

escape from the criminal case has filed H.M.O.P.No.1215 of 2014 on the file of II Additional Family Court, Chennai, for restitution of conjugal rights, against the petitioner. The petitioner filed Tr.C.M.P.No.299 of 2014 before this Court and this Court by order dated 09.09.2014, transferred the said H.M.O.P.No.1215 of 2014 filed by the respondent for restitution of conjugal rights, to the file of Family Court, Coimbatore. After transfer, the respondent withdrew the said H.M.O.P.No.1215 of 2014 in the month of November, 2017. Now the respondent has filed O.P.No.663 of 2018 against the petitioner for divorce before II Additional Family Court, Chennai.

3. According to the petitioner, she is residing along with her aged parents at Coimbatore. The distance between Coimbatore and Chennai is more than 500 kilometers and being a lady, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Chennai for each and every hearing. She has no one to accompany her to attend the Court proceedings at Chennai. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer O.P.No.663 of 2018 pending on the file of II Additional Family Court, Chennai, to the file of any other competent Court at Coimbatore.

4. The learned counsel for the respondent submitted that it will be very difficult for the respondent to travel from Chennai to Coimbatore 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 respondent and perused the materials available on record.

6. Considering the above contention of the learned counsel for the petitioner as well as 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 O.P.No.663 of 2018 is ordered to be withdrawn from the file of II Additional Family Court, Chennai and transferred to the file of Family Court, Coimbatore. The learned Judge, II Additional Family Court, Chennai, is directed to transmit all the records pertaining to O.P.No.663 of 2018 to the file of Family Court, Coimbatore, 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-V)

//True Copy//

Sub Assistant Registrar

LPP/kj

To

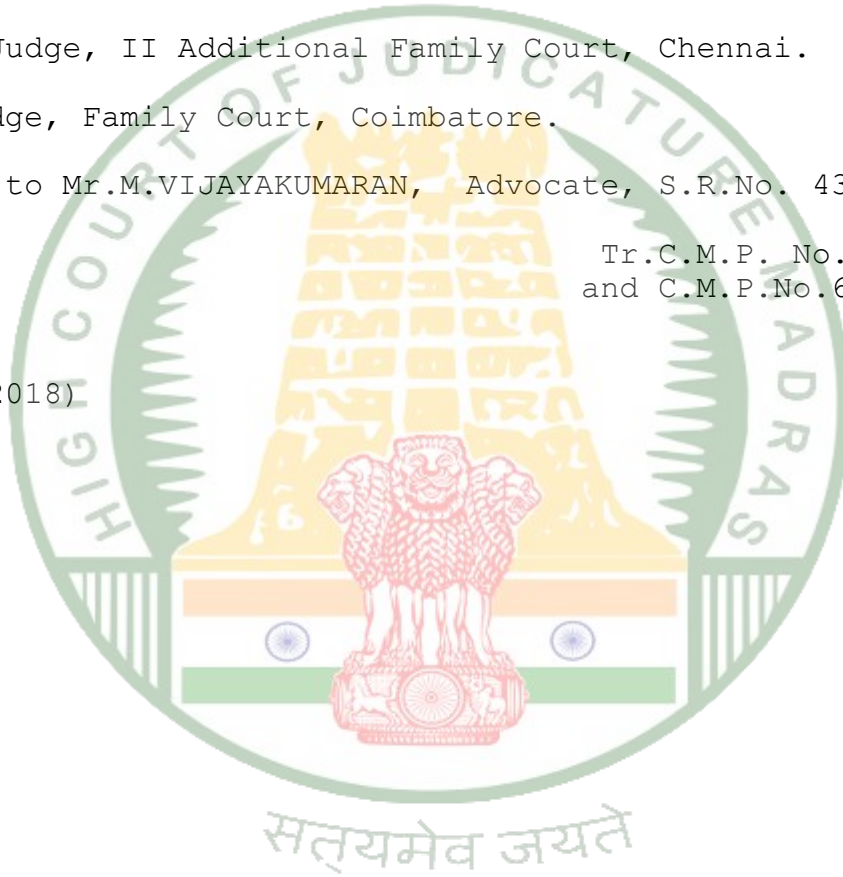
1.The II Judge, II Additional Family Court, Chennai.

2.The Judge, Family Court, Coimbatore.

+1cc to Mr.M.VIJAYAKUMARAN, Advocate, S.R.No. 43458

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