

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.255 of 2018
and C.M.P.No.6586 of 2018

D.Lakshmi

.. Petitioner

Vs.

R.Suresh

.. Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.213 of 2017 pending on the file of the Sub Court, Ponneri and transfer the same to the file of the IV Additional Family Court, Chennai to be tried along with M.C.No.42 of 2018.

For Petitioner : Mr.A.P.Ramesh

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.213 of 2017 pending on the file of the Sub Court, Ponneri and transfer the same to the file of the IV Additional Family Court, Chennai to be tried along with M.C.No.42 of 2018.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 26.04.2004 as per Hindu Religious Rites and Customs. After marriage, they were living together in the matrimonial home at Melur, Minjur Post, Ponneri Taluk. In the wed-lock two children were born on 08.02.2005 and 08.08.2008. The respondent tortured the petitioner and the children and deserted them from 24.05.2015. From that day onwards, the petitioner is staying along with her parents at Chennai. While so, the respondent filed H.M.O.P.No.213 of 2015 before Sub Court, Ponneri for divorce.

3.According to the petitioner, she is unemployed and not having any independent income and depending upon her parents for day-to-day expenses including traveling expenses. Hence, the

petitioner has filed M.C.No.42 of 2018 on the file of the IV Additional Family Court, Chennai. Being a lady, it will be very difficult for her to travel from Chennai to Ponneri to attend each and every hearing in H.M.O.P.No.213 of 2015 before Sub Court at Ponneri. In the circumstances, she has filed present Transfer Civil Miscellaneous Petition to Transfer H.M.O.P.No.213 of 2017 to the file of the IV Additional Family Court, Chennai to be tried along with M.C.No.42 of 2018.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for him either in person or through counsel.

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.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.213 of 2017 is ordered to be withdrawn from the file of the Sub Court, Ponneri and transferred to the file of the IV Additional Family Court, Chennai, to be tried along with M.C.No.42 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Ponneri, is directed to transmit all the records pertaining to H.M.O.P.No.213 of 2017 to the file of the IV Additional Family Court, Chennai 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-VII)

//True Copy//

Sub Assistant Registrar

gsa

To

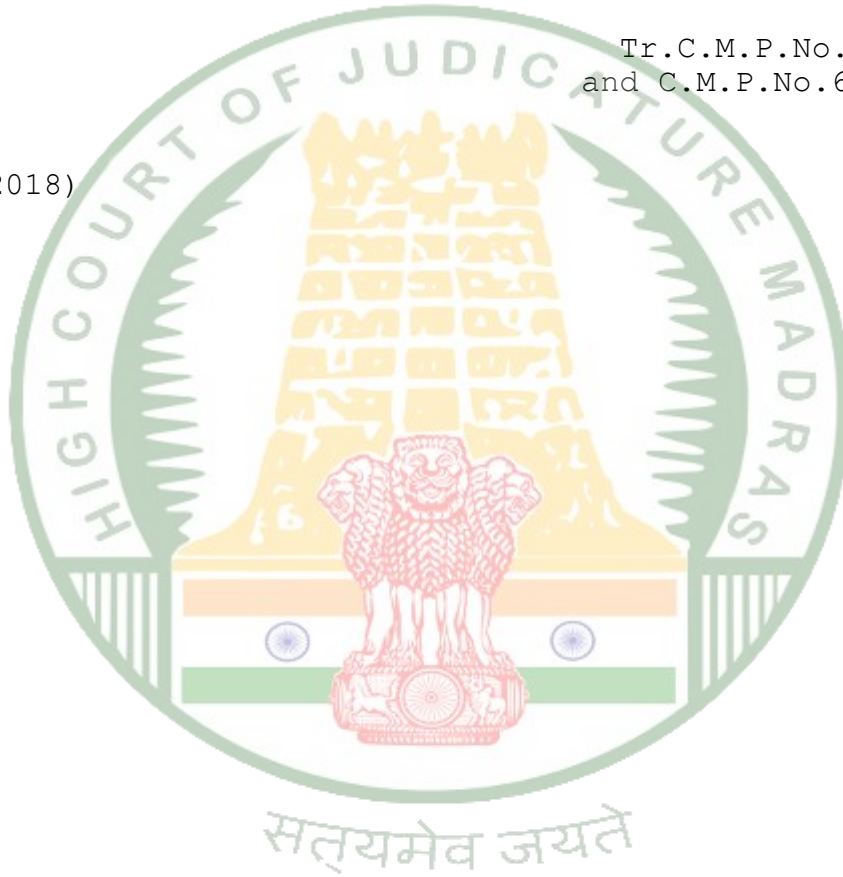
1.The Subordinate Judge,
Ponneri.

2.The Judge,
IV Additional Family court,
Chennai.

+1cc to Mr.A.P.RAMESH, Advocate, S.R.No.35791

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KJ(CO)
TR(06/07/2018)



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