

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.258 of 2018
and C.M.P.No.6655 of 2018

C.Janaki

... Petitioner

Vs.

K.Rajendra Sozhan

... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.404 of 2017 pending on the file of the Family Court, Pondicherry and transfer the same to the file of the Sub Court at Poonamallee.

For Petitioner : Mr.N.Shajathi

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.404 of 2017 pending on the file of the Family Court, Pondicherry and transfer the same to the file of the Sub Court at Poonamallee.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 06.11.2016. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the respondent filed H.M.O.P.No.404 of 2017 before the Family Court at Pondicherry for for restitution of conjugal rights.

3.According to the petitioner, she is residing at Mugalivakkam, Chennai along with her parents and depending on them for her day-to-day expenses, as she is unemployed. The distance between her residence and Pondicherry is more than 150 kms and hence, it will be very difficult for her to travel such a long distance to attend each and every hearing. In the circumstances, she has filed the present Transfer civil Miscellaneous Petition to transfer H.M.O.P.No.404 of 2017 from the file of the Family Court, Pondicherry to the file of Sub Court at Poonamallee.

4.The learned counsel for the petitioner contended that at the time of filing the petition, the petitioner was unemployed. Now she has taken a job in a private concern at Chennai and getting meager income and hence it will be convenient for the petitioner if H.M.O.P.No.404 of 2017 is transferred from Family Court, Pondicherry to Principal Family Court at Chennai.

5.This Court ordered notice to the respondent through Court as well as privately. The notice sent to the respondent through Court has been returned with an endorsement as "door locked" and notice sent to the respondent privately was served and counsel for the petitioner filed affidavit of service, enclosing the acknowledgment card. The Registry was directed to print the name of the respondent. Though his name is printed in the cause list, today, there is no representation for him either in person or through counsel.

6.Considering the above contention of the learned counsel for the petitioner that she is working and residing at Chennai 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.404 of 2017 is ordered to be withdrawn from the file of the Family Court, Pondicherry and transferred to the file of the Principal Family Court, Chennai. The learned Judge, Family Court, Pondicherry is directed to transmit all the records pertaining to H.M.O.P.No.404 of 2017 to the file of the Principal 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.

सत्यमेव जयते
s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

gsa

To

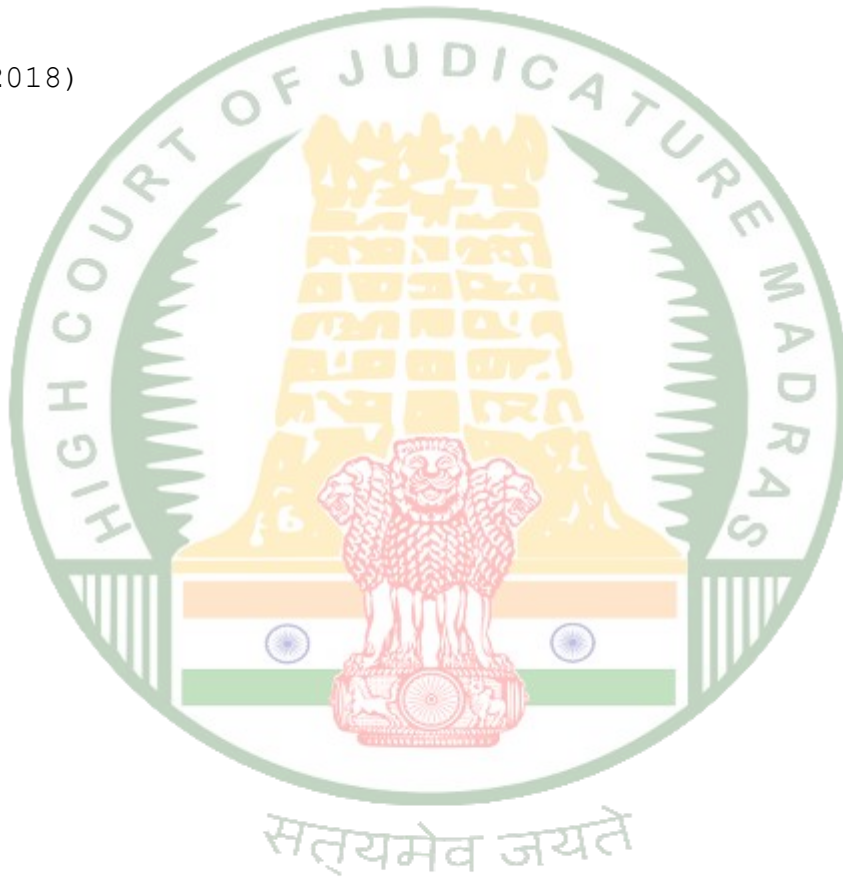
1.The Principal Judge, Family Court, Chennai.

2.The Judge, Family Court, Pondicherry.

+1 CC to Mr.S. Azhagesan, Advocate sr 40241.

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SP (09/07/2018)



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