

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.259 of 2018
and C.M.P.No.6682 of 2018

N.Vigneswari

...Petitioner/Respondent

Vs.

K.Sakthivel

... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.25 of 2018 on the file of the Subordinate Court, Nagapattinam and transfer the same to the file of the Family Court, Karaikal, to be tried along with M.O.P.No.7 of 2018 on the file of the Famil Court, Karaikal.

For Petitioner : Mr.T.Sai Krishnan
For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.25 of 2018 on the file of the Subordinate Court, Nagapattinam and transfer the same to the file of the Family Court, Karaikal, to be tried along with M.O.P.No.7 of 2018 on the file of the Famil Court, Karaikal.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 01.06.2014 as per Hindu rites and customs. Due to difference of opinion between the petitioner and respondent, both are living separately. The petitioner has filed M.O.P.No.7 of 2018 on the file of the Family Court, Karaikal, against the respondent, for divorce. The respondent also filed H.M.O.P.No.25 of 2018 on the file of the Subordinate Court, Nagapattinam, against the petitioner for restitution of conjugal rights, making false allegations.

3.According to the petitioner, she is residing at Kottucherry, Karaikal, along with her parents and working as a part time Computer Operator in V.O.C. Government Higher Secondary School, Kottucherry and getting very meager income. The distance between Kottucherry and Nagapattinam is 25 kilometers and hence, it is very difficult for her to travel to

attend the Court proceedings at Nagapattinam. Unless both the H.M.O.Ps. are heard together and decided jointly, there will be conflicting judgments. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.25 of 2018 pending on the file of the Subordinate Court, Nagapattinam, to the file of the Family Court, Karaikal to be tried along with M.O.P.No.7 of 2018.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of his 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.25 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Nagapattinam and transferred to the file of the Family Court, Karaikal, to be tried along with M.O.P.No.7 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, Nagapattinam, is directed to transmit all the records pertaining to H.M.O.P.No.25 of 2018 to the file of the Family Court, Karaikal, 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.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

mps

To

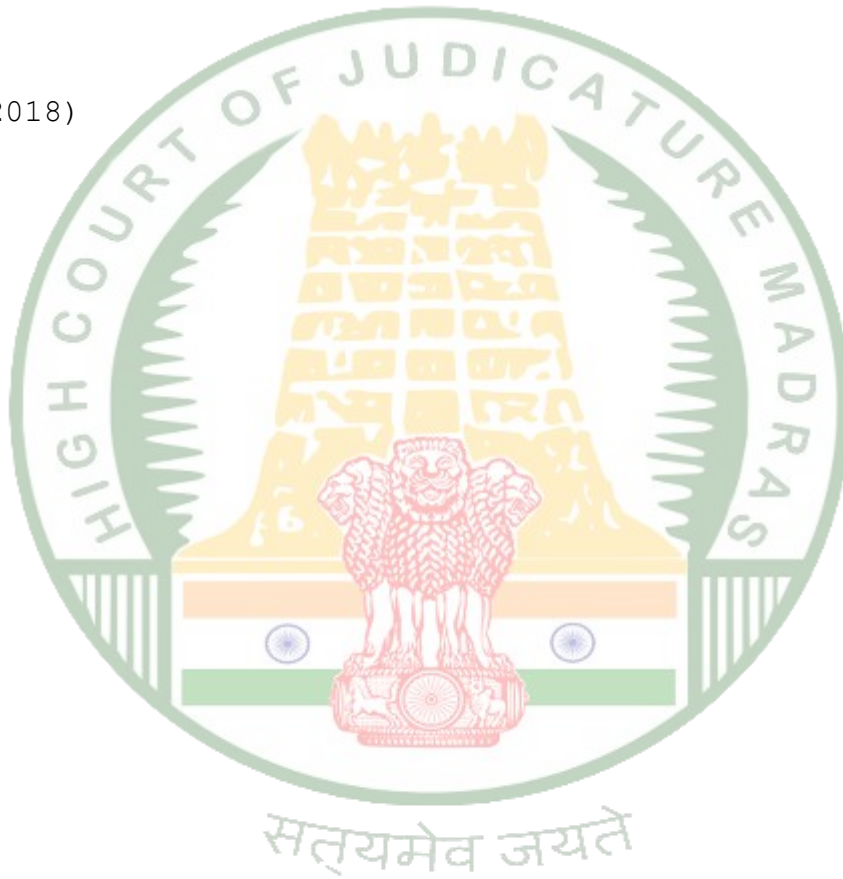
1.The Judge,
Family Court,
Karaikal.

2.The Subordinate Judge,
Nagapattinam.

+1 CC to Mr.T.Sai Krishnan, Advocate sr 31021.

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SSV(CO)
SP(11/05/2018)



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