

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.260 of 2018
and C.M.P.No.6685 of 2018

B.G.Maheswari

...Petitioner/Respondent

Vs.

R.Karthick

... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw O.P.No.1647 of 2017 pending on the file of the Principal Family Court, Chennai and transfer the same to the file of the Subordinate Court, Poonamallee, to try along with O.P.No.116 of 2015 pending on its file.

For Petitioner : Mr. S.Thiruvengadam

For Respondent : Mr.G.Gopinath

O R D E R

This petition is filed to withdraw O.P.No.1647 of 2017 pending on the file of the Principal Family Court, Chennai and transfer the same to the file of the Subordinate Court, Poonamallee, to try along with O.P.No.116 of 2015 pending on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 18.01.2014 as per Hindu rites and customs. Due to difference of opinion between the petitioner and respondent, they are living separately. The petitioner has filed O.P.No.116 of 2015 on the file of the Subordinate Court, Poonamallee, for restitution of conjugal rights against the respondent. The respondent filed the counter and he is contesting the OP. Subsequently, the respondent has filed O.P.No.1647 of 2017 on the file of the Principal Family Court, Chennai, for divorce against the petitioner.

3. According to the petitioner, she is residing at Porur along with her parents and it will be very difficult for her to attend the Court proceedings at Chennai. In the

circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer O.P.No.1647 of 2017 pending on the file of the Principal Family Court, Chennai to the file of the Sub Court, Poonamallee, to try along with O.P.No.116 of 2015 pending on its file.

4. The respondent filed the counter. The learned counsel appearing for the respondent submitted that it will be difficult for the respondent to appear before the Subordinate Court, Poonamallee, if O.P.No.1647 of 2017 is transferred to the Sub Court, Poonamallee, and prayed for dismissal of Tr.CMP.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6. Considering the contentions of the learned counsel for the petitioner as well as the 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.1647 of 2017 is ordered to be withdrawn from the file of the Principal Family Court, Chennai and transferred to the file of the Sub Court, Poonamallee to be tried along with O.P.No.116 of 2015 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, Principal Family Court, Chennai, is directed to transmit all the records pertaining to O.P.No.1647 of 2017 to the file of the Subordinate Court, Poonamallee, 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(Audit)

//True Copy//

Sub Assistant Registrar

LPP/mps

To

1.The Principal Judge, Principal Family Court,
Chennai

2.The Subordinate Judge, Poonamallee

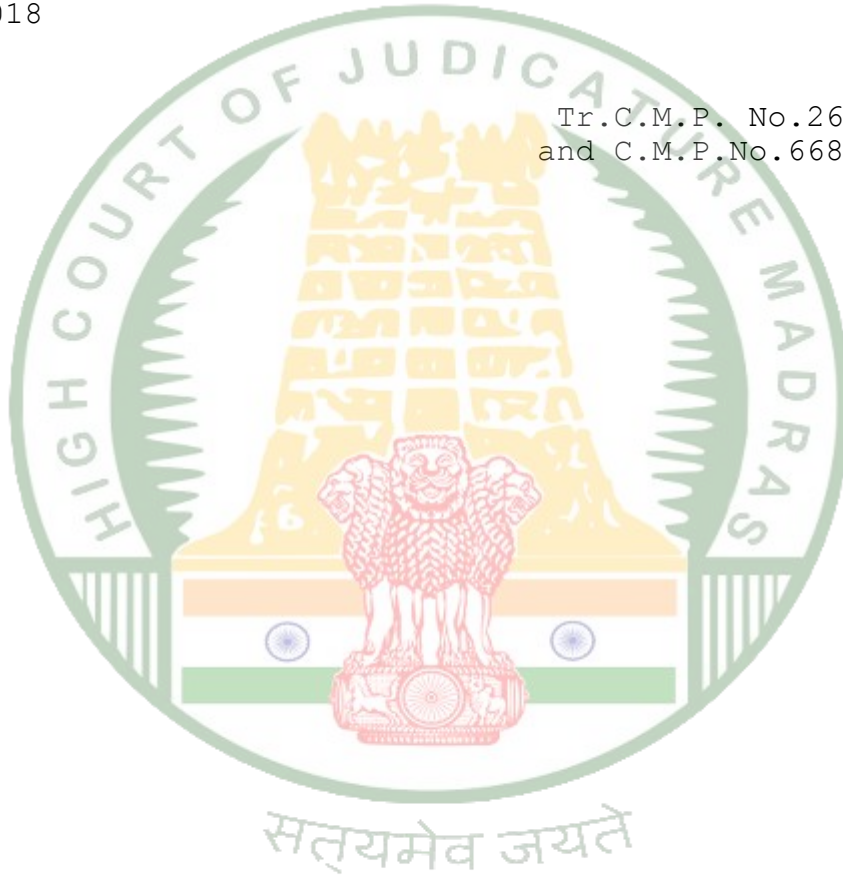
+1cc to Mr.S.Thiruvengadam, Advocate Sr.No.30868/2018

+1cc to Mr.T.K.Dharmaraja, Advocate Sr.No.30626

SSV(CO)

sm:11.5.2018

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