

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.275 of 2018
and C.M.P.No.6921 of 2018

P.Muthuselvi

.. Petitioner/Respondent

Vs.

R.Elendevan Chandran Jeyabala

.. Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.93 of 2018 pending on the file of the District Family Court, Madurai and transfer the same to the file of the Family Court, Chennai where M.C.No.149 of 2018 is pending.

For Petitioner : Mrs.Auxilia Peter

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.93 of 2018 pending on the file of the District Family Court, Madurai and transfer the same to the file of the Family Court, Chennai to be tried along with M.C.No.149 of 2018.

2.The petitioner is the wife and respondent is the husband. At the time of marriage, the petitioner had a daughter namely Priyanka which was born to the petitioner and her previous husband. The marriage between the petitioner and respondent was conducted on 11.05.2012 as per Hindu Rites and Customs. In the wedlock a male child was born on 10.11.2013. According to the petitioner, both of them were residing together at K.K.Nagar from September 2014 to December 2017. The respondent without informing the petitioner has taken all his things and left the matrimonial home, deserting the petitioner. While so, the respondent filed H.M.O.P.No.93 of 2018 on the file of the District Family Court, Madurai for divorce.

3.According to the petitioner, she is working and residing in Chennai. The minor daughter is studying in X Standard at Jewahar Vidhalaya, Ashok Nagar and the son is studying LKG at

PSBB School, K.K.Nagar. The petitioner has filed M.C.No.149 of 2018 before the Family Court at Chennai. The respondent did not appear before the Family Court at Chennai. Only to harass the petitioner, the respondent has filed H.M.O.P.No.93 of 2018 before the District Family Court at Madurai.

4.The learned counsel for the petitioner submitted that the distance between Madurai and Chennai is more than 500 kms and being a lady, it will be very difficult for the petitioner to travel such a long distance to attend each and every Court proceedings. She also has to spend considerable amount towards traveling expenses. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.93 of 2018 pending on the file of the Family Court at Madurai to the file of the Family Court at Chennai to be tried along with M.C.No.149 of 2018 in order to avoid conflicting decisions being delivered by two different Courts.

5.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.

6.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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.93 of 2018 is ordered to be withdrawn from the file of the District Family Court, Madurai and transferred to the file of the Family Court, Chennai to be tried along with M.C.No.149 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, District Family Court, Madurai is directed to transmit all the records pertaining to H.M.O.P.No.93 of 2018 to the file of the 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(CCC)

//True Copy//

Sub Assistant Registrar

gsa

To

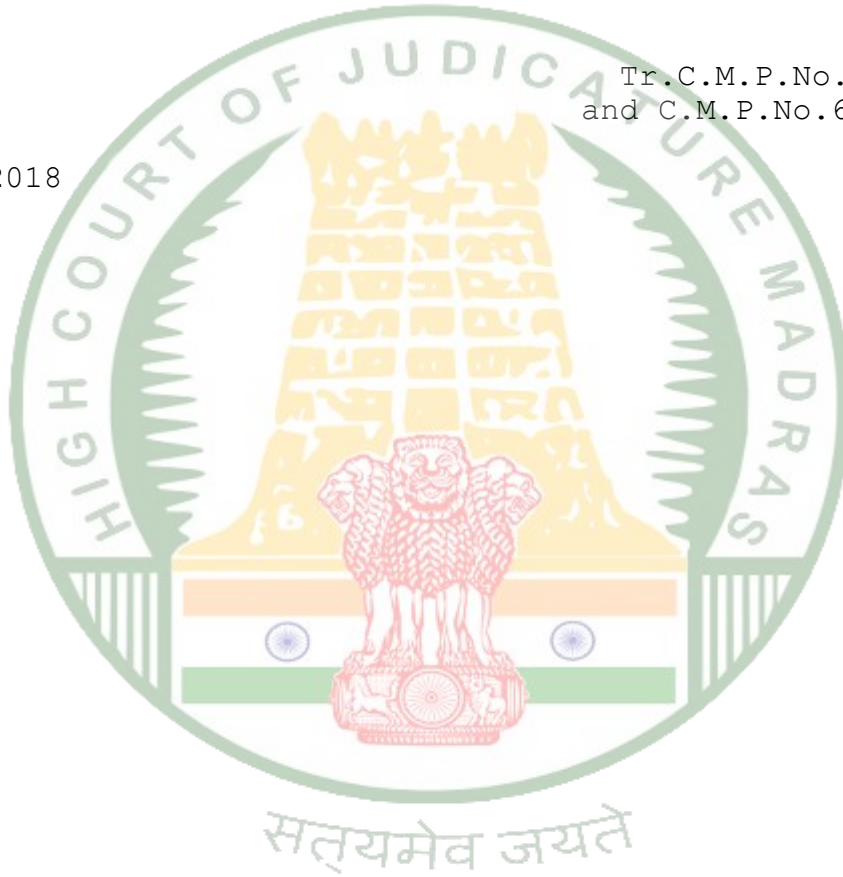
1.The Judge,
District Family Court, Madurai

2.The Judge,
Family Court, Chennai.

+lcc to Mrs.Auxilia Peter, Advocate sr.no.36947

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