

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.287 of 2018

and C.M.P.No.7385 of 2018

Arulmary

... Petitioner

Vs.

K.Meenakshi Sundaram

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.723 of 2018 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the Subordinate Court, Tiruppur.

For Petitioner : Mr.A.Saravanan

For Respondent : Mr.R.Srinivasan

O R D E R

This petition is filed to withdraw H.M.O.P.No.723 of 2018 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of the Subordinate Court, Tiruppur.

2.Though the Transfer Civil Miscellaneous Petition is coming for admission, the respondent entered appearance through counsel by filing caveat No.1458 of 2018. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

3.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.05.2013 as per Hindu rites and customs. In the wedlock, a female child was born on 28.01.2014. Due to difference of opinion between the petitioner and respondent, the petitioner left the matrimonial home and she is residing with her parents. The respondent filed H.M.O.P.No.723 of 2018 on the file of the I Additional Family Court, Chennai, for divorce against the petitioner.

4.According to the petitioner, her father was working and residing in Tirunelveli District before her marriage. Subsequently, her parents shifted their residence to Tiruppur for their work. Now the petitioner is residing with her parents at Palladam in Tiruppur District along with her minor child. The child is studying L.K.G. in Tagore Vidyalaya Nursery and Primary School at Mahalakshmi nagar, Palladam, Tiruppur District. The respondent has filed H.M.O.P.No.723 of 2018 before the file of the I Additional Family Court, Chennai, knowing fully well that the petitioner is residing in

Tiruppur District. Further, the petitioner is not having any independent income and she is depending on her parents for her day-to-day expenses including educational expenses of her child. The distance between Tiruppur and Chennai is more than 400 kilometers and hence, it is difficult for her to attend the Court at Chennai along with her minor child, wherein presence of spouse is mandatory for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.723 of 2018 on the file of the I Additional Family Court, Chennai, to the file of the Subordinate Court, Tiruppur.

5.At this juncture, both the learned counsel appearing for the petitioner and respondent prayed for early disposal of H.M.O.P.

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. 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 H.M.O.P.No.723 of 2018 is ordered to be withdrawn from the file of the I Additional Family Court, Chennai and transferred to the file of the Subordinate Court, Tiruppur. The learned I Additional Family Court Judge, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.723 of 2018 to the file of the Subordinate Court, Tiruppur, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Subordinate Judge, Tiruppur, is directed to dispose of the case as expeditiously as possible in any event not later than six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kj

To

1.The Subordinate Judge, Tiruppur.

2.I Additional Family Court Judge, Chennai.

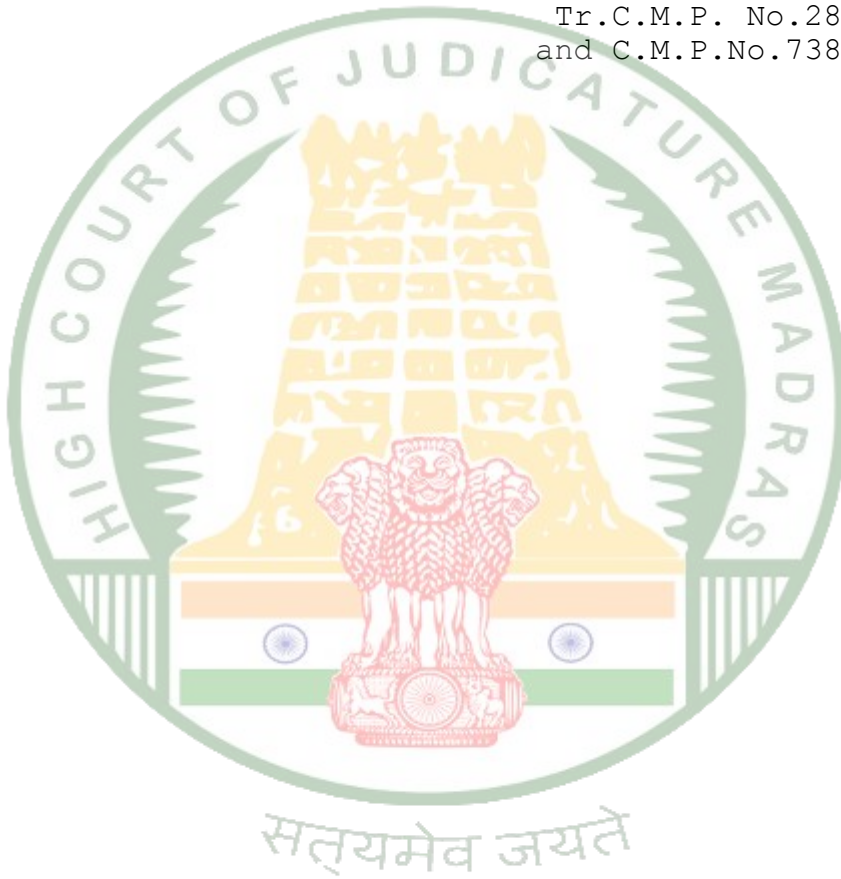
+1cc to Mr.A.Saravanan, Advocate Sr.No.28281

+1cc to Mr.S.Srinivasan, Advocate Sr.no.28519

NA (CO)

sm:15.5.2018

Tr.C.M.P. No.287 of 2018
and C.M.P.No.7385 of 2018



WEB COPY