

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.289 of 2018
and C.M.P.No.7458 of 2018

M.L.Vernitha

.. Petitioner/Respondent

Vs.

M.Maheswaran

.. Respondent/Petitioner

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.511 of 2017 pending on the file of the Sub Court, Poonamallee, Tiruvallur District and transfer the same to the file of the Family Court, Nagercoil, Kanyakumari District.

For Petitioner : M/s.S.Deivasigamani

For Respondent : No appearance

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.511 of 2017 pending on the file of the Sub Court, Poonamallee, Tiruvallur District and transfer the same to the file of the Family Court, Nagercoil, Kanyakumari District.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 28.09.2005 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Mugappair, Chennai. In the wedlock, two male children were born on 29.10.2009 and 26.02.2007. The petitioner filed a private complaint against the respondent and his family members before the Judicial Magistrate No.II, Nagercoil in C.C.No.222 of 2017 as the respondent suppressed his earlier marriage. Summons were also served on the respondent. After receipt of summons in the above C.C.No.222 of 2017, the respondent filed H.M.O.P.No.511 of 2017 before the Subordinate Court, Poonamallee, Tiruvallur District for divorce on the ground of cruelty and desertion.

3.According to the petitioner, she is residing at Nagercoil along with two children who are studying V Standard and II Standard in a school at Nagercoil. She is unemployed and not having any independent income. The distance between Nagercoil and Poonamallee is more than 1400 kms up and down

and hence it will be very difficult for her to travel such a long distance without the assistance of her family members 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.511 of 2017 pending on the file of the Sub Court, Poonamallee, Tiruvallur District to the file of the Family Court, Nagercoil, Kanyakumari District.

4.Heard the learned counsel for the petitioner and perused the materials available on record. On 04.06.2018, Mr.A.M.Natraj, learned counsel represented that he is going to file vakalat for the respondent. At his request, the matter was adjourned to 11.06.2018. On 11.06.2018, Mr.A.M.Natraj has not filed vakalat and this Court directed the Registry to print the name of the respondent along with name of Mr.A.M.Natraj, counsel for the respondent. On 12.06.2018, vakalat was filed by Mr.A.M.Natraj and this Court directed the Registry to post the matter today. Though the respondent entered appearance through counsel, today there is no representation for the respondent.

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.511 of 2017 is ordered to be withdrawn from the file of the Sub Court, Poonamallee, Tiruvallur District and transferred to the file of the Family Court, Nagercoil, Kanyakumari District. The learned Subordinate Judge, Poonamallee, Tiruvallur District is directed to transmit all the records pertaining to H.M.O.P.No.511 of 2017 to the file of the Family Court, Nagercoil, Kanyakumari District 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(CS VI)

//True Copy//

Sub Assistant Registrar

gsa

<https://hcservices.ecourts.gov.in/hcservices/>

To

1.The Subordinate Judge,
Poonamallee, Tiruvallur District.

2.The Judge, Family Court,
Nagercoil, Kanyakumari District.

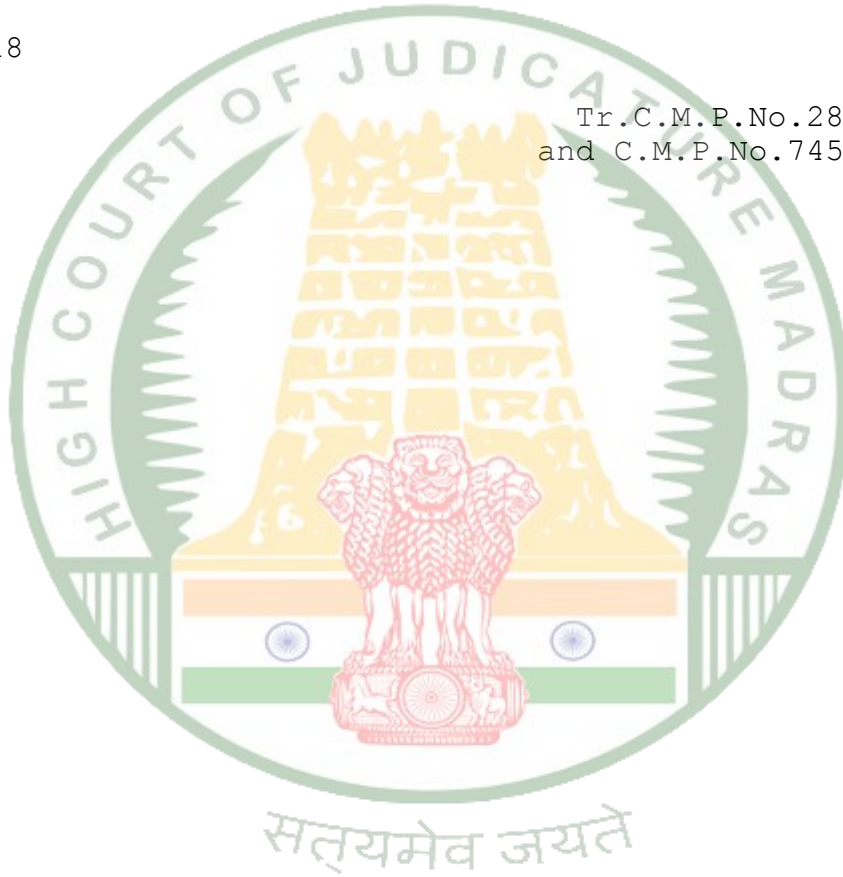
+1cc to Mr.V.Arul Advocate Sr.No.37584

+1cc to Mr.A.M.Natraj, Advocate Sr.NO.37363

NRL(CO)

sm:6.7.2018

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