

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.298 of 2018
and C.M.P.No.7596 of 2018

Nancy James

.. Petitioner

Vs.

Siby Mathew

.. Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code, to withdraw I.D.O.P.No.118 of 2017 pending on the file of the Family Court, Chengalpattu and transfer the same to the file of the Family Court, Vellore.

For Petitioner : Mrs.Auxilia Peter

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw I.D.O.P.No.118 of 2017 pending on the file of the Family Court, Chengalpattu and transfer the same to the file of the Family Court, Vellore.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 11.02.2001 as per Christian Rites and Customs. In the wed-lock a female child was born and she is studying XI standard at a School in Krishnagiri. The respondent deserted the petitioner in the month of December 2009. The petitioner is working as a teacher and getting meager income. The petitioner filed I.D.O.P.No.21 of 2012 for divorce on the ground of cruelty, desertion and adultery before the Principal District Court, Vellore. The said I.D.O.P was transferred to Family Court, Vellore and renumbered as F.C.O.P.No.61 of 2014. The said F.C.O.P.No.61 of 2014 was dismissed. The petitioner did not file any appeal against the said order of dismissal. While so, the respondent filed I.D.O.P.No.118 of 2017 before the Family Court, Chengalpattu for restitution of conjugal rights.

3. According to the petitioner, she is residing at Krishnagiri along with minor daughter. The learned counsel for the petitioner submitted that the distance between Krishnagiri and Chennai is more than 255 kms and being a lady, it will be very difficult for her to travel such a long distance to attend each and every Court proceedings. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to Transfer I.D.O.P.No.118 of 2017 pending on the file of the Family Court, Chengalpattu to the file of the Family Court, Vellore.

4. 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.

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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in I.D.O.P.No.118 of 2017 is ordered to be withdrawn from the file of the Family Court, Chengalpattu and transferred to the file of the Family Court, Vellore. The learned Judge, Family Court, Chengalpattu is directed to transmit all the records pertaining to I.D.O.P.No.118 of 2017 to the file of the Family Court, Vellore 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.

सत्यमेव जयते Sd/-

Assistant Registrar (CS-VII)

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Sub Assistant Registrar

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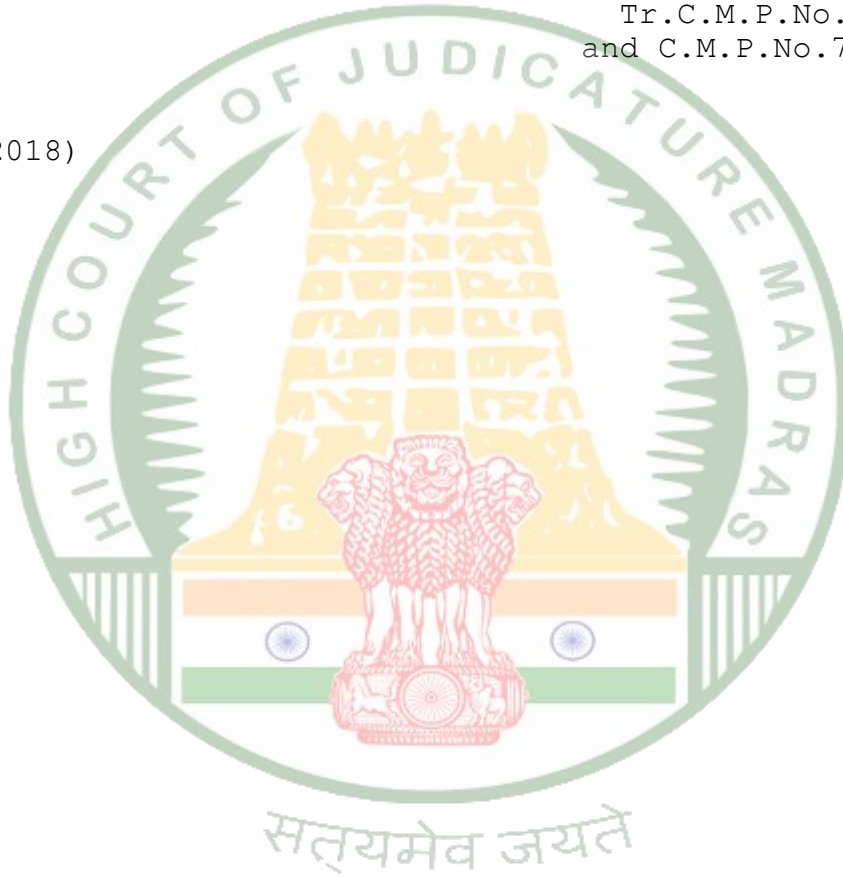
1.The Judge,
Family Court, Chengalpattu.

2.The Judge,
Family Court, Vellore.

+lcc to Mr.AUXILIA PETER, Advocate, S.R.No. 36948

Tr.C.M.P.No.298 of 2018
and C.M.P.No.7596 of 2018

CP(CO)
TR(29/06/2018)



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