

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.253 of 2015
and M.P.No.1 of 2015

Rebackal Marry

... Petitioner

Vs.

C.V.Jockson Prem Kumar

... Respondent

Prayer: Petition has been filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.51 of 2012 pending on the file of the District Court, Vellore and transfer the same to the file of Subordinate Court, Tambaram, Kanchipuram District to be tried along with I.A.No.45 of 2013.

For Petitioner : Mr.S.S.Vasudevan

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition is filed to withdraw I.D.O.P.No.51 of 2012 pending on the file of the District Court, Vellore and transfer the same to the file of Subordinate Court, Tambaram, Kanchipuram District to be tried along with I.A.No.45 of 2013.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 12.07.2002 at Fathima Church as per Christian Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Arakkonam. In the wedlock a male child was born on 19.04.2004. The respondent treated the petitioner cruelly and dropped the petitioner and minor son at her brother's house on 10.09.2011. The respondent deserted the petitioner since then. While so, the respondent filed I.D.O.P.No.51 of 2012 on the file of the District Court, Vellore for divorce. The petitioner filed a petition for maintenance in I.A.No.45 of 2013 in I.D.O.P.No.51 of 2012 on the file of the District Court, Vellore.

3. According to the petitioner, she is residing at Chrompet along with her male child at her brother's house and she is not having any independent income and depending on her brother for her day-to-day expenses. In the circumstances, the petitioner filed the present Transfer Civil Miscellaneous Petition to transfer I.D.O.P.No.51 of 2012 and I.A.No.45 of 2013 pending on the file of the District Court, Vellore to the file of Subordinate Court, Tambaram, Kanchipuram District to be tried along with I.A.No.45 of 2013.

4. The learned counsel for the petitioner submitted that the distance between Chrompet and Vellore is more than 100 kms and it is very difficult for her to travel such a long distance to attend each and every Court proceedings.

5. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed 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. 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 petitions in I.D.O.P.No.51 of 2012 and I.A.No.45 of 2013 are ordered to be withdrawn from the file of the District Court, Vellore and transferred to the file of the Subordinate Court, Tambaram, Kanchipuram District. The learned District Judge, Vellore, is directed to transmit all the records pertaining to I.D.O.P.No.51 of 2012 and I.A.No.45 of 2013 to the file of the Subordinate Court, Tambaram, 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 II)

//True Copy//

Sub Assistant Registrar

gsa

To

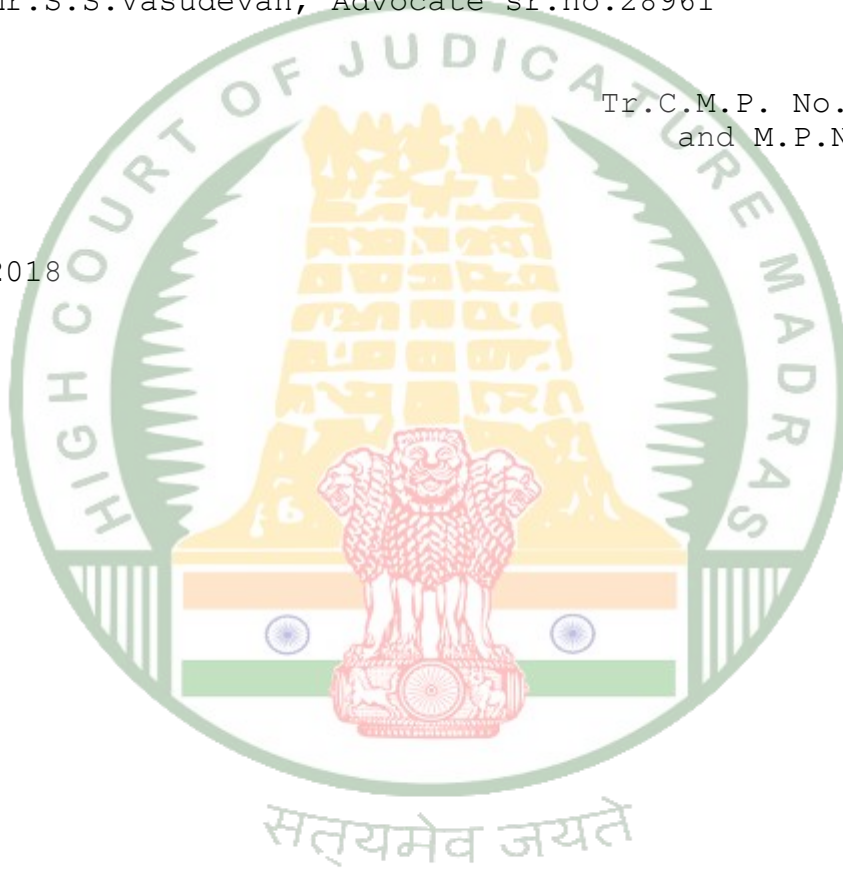
1.The District Judge,
Vellore.

2.The Subordinate Judge,
Tambaram,
Kanchipuram District.

+lcc to Mr.S.S.Vasudevan, Advocate sr.no.28961

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