

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.301 of 2018

and C.M.P.No.7607 of 2018

V.Chitra

... Petitioner

Vs.

Balumahendra

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.84 of 2018 pending on the file of the Sub Court, Theni and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.L.Prabahar

For Respondent : Mr.A.P.Peter Gunasekaran

O R D E R

This petition is filed to withdraw H.M.O.P.No.84 of 2018 pending on the file of the Sub Court, Theni and transfer the same to the file of the Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 02.03.2017 as per Hindu rites and customs. After marriage, the respondent and his parents harassed the petitioner by demanding dowry and they have thrown her out from the matrimonial home. The respondent filed H.M.O.P.No.84 of 2018 on the file of the Sub Court, Theni, for divorce.

3.According to the petitioner, she is residing at Chennai along with her parents. The distance between Chennai and Theni is more than 430 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings for each and every hearing. Further, the petitioner has filed M.C.No.177 of 2018 on the file of the V Additional Family Court, Chennai, against the respondent, claiming interim maintenance. In the circumstances, the petitioner has come out

with the present Tr.C.M.P. to transfer H.M.O.P.No.84 of 2018 pending on the file of the Sub Court, Theni, to the file of the Family Court, Chennai.

4.The learned counsel for the respondent filed counter affidavit and denied the averments made by the petitioner. He submitted that this Transfer Petition is liable to be dismissed on the ground that H.M.O.P.No.84 of 2018 filed in the Sub Court, Theni, is under the territorial jurisdiction of the Madurai Bench of Madras High Court. The learned counsel for the respondent further contended that the respondent is unemployed Engineering graduate and is depending upon the income of his parents from the Pawn broker business. The petitioner is a graduate in Psychology and scope of her employment is very wide and only to harass the respondent, she is not availing the said opportunity. The respondent made various allegations on merits and prayed for dismissal of the Transfer Petition.

5.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6.Considering the above contention of the learned counsel for the petitioner as well as the respondent 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.84 of 2018 is ordered to be withdrawn from the file of the Sub Court, Theni and transferred to the file of the V Additional Family Court, Chennai, to be tried along with M.C.No.177 of 2018 filed by the petitioner in order to avoid multiplicity of proceedings. The learned Subordinate Judge, Theni, is directed to transmit all the records pertaining to H.M.O.P.No.84 of 2018 to the file of the V Additional 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

To

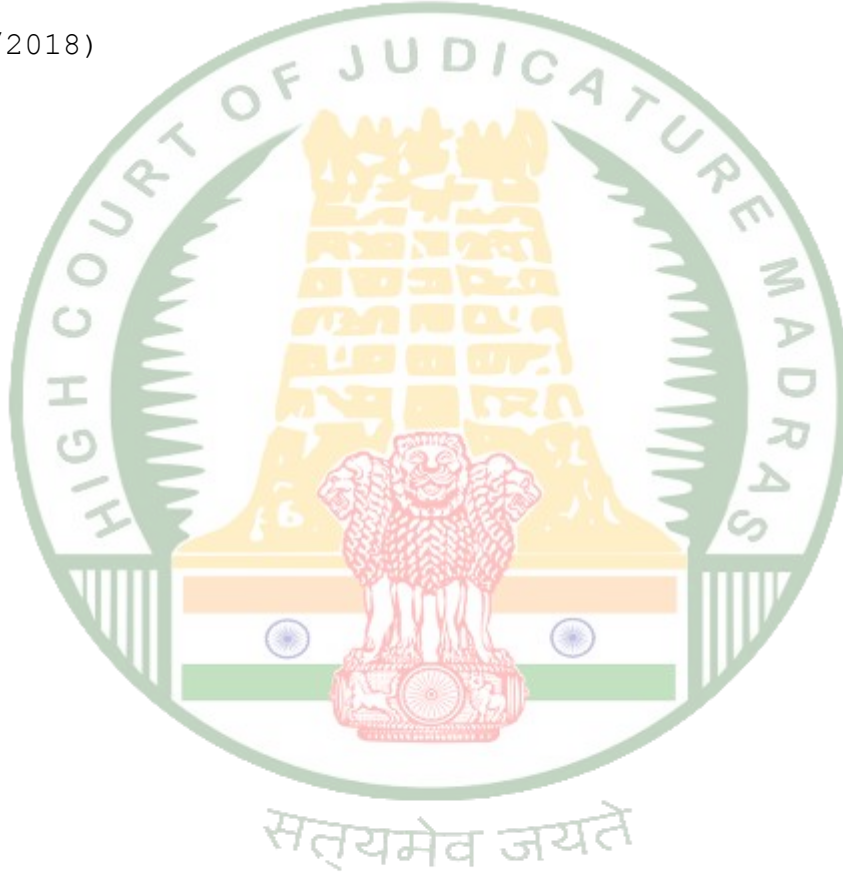
1.The Subordinate Judge, Theni.

2.The V Additional Judge, Family Court, Chennai.

+1cc to Mr.M.Sarath Kumar, Advocate, S.R.No.36427

Tr.C.M.P. No.301 of 2018
and C.M.P.No.7607 of 2018

GSP(06/07/2018)



WEB COPY