

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.315 of 2018  
and C.M.P.No.8001 of 2018

S.Lavanya

.. Petitioner/Respondent

Vs.

P.Karthick

.. Respondent/Petitioner

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.202 of 2017 pending on the file of the Sub Court, Kancheepuram and transfer the same to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.1370 of 2018.

For Petitioner : Mr.K.Arun Prasad  
For Respondent : No Appearance

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.202 of 2017 pending on the file of the Sub Court, Kancheepuram and transfer the same to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.1370 of 2018.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 18.11.2015 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Kundrathur, Chennai. The respondent and his family members tortured the petitioner and ill treated her in a cruel manner. The petitioner lodged a complaint dated 23.04.2016 to the Inspector of Police, Kundrathur Police Station. While so, the respondent filed H.M.O.P.No.202 of 2017 before the Sub Court, Kancheepuram for divorce.

3.According to the petitioner, she filed H.M.O.P.No.1370 of 2018 before II Additional Family Court, Chennai for restitution of conjugal rights and also filed complaint under Domestic Violence Act against the respondent and his family members and the same is pending before the Additional Mahila Metropolitan Magistrate Court at Allikulam, Chennai. The petitioner is residing at Kolathur, Chennai along with her parents and hence

it will be very difficult for her to travel from Chennai to Kancheepuram 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.202 of 2017 pending on the file of the Sub Court, Kancheepuram to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.1370 of 2018 in order to avoid conflicting decisions being delivered by two different Courts.

5.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.

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.202 of 2017 is ordered to be withdrawn from the file of the Sub Court, Kancheepuram and transferred to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.1370 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Kancheepuram is directed to transmit all the records pertaining to H.M.O.P.No.202 of 2017 to the file of the II 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.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

gsa

To

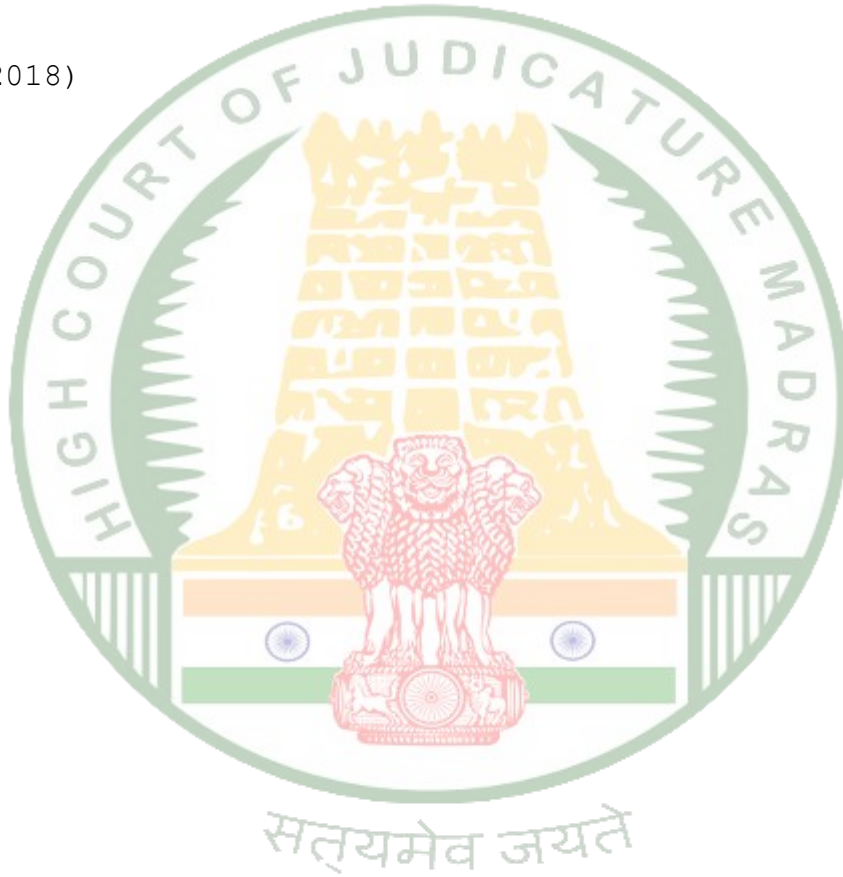
1.The Subordinate Judge, Kancheepuram.

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

+1 CC to Mr.T. Dhamodharan, Advocate sr 37371

Tr.C.M.P.No.315 of 2018  
and C.M.P.No.8001 of 2018

SP(06/07/2018)



WEB COPY