

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.324 of 2018
and C.M.P.No.8215 of 2018

V.Venkateswari

... Petitioner

Vs.

G.Venkat Ganesh

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.33 of 2016 pending on the file of Principal Sub Court, Chengalpattu and transfer the same to the file of Sub Court, Panruti, to be tried along with H.M.O.P.No.34 of 2016 pending on its file.

For Petitioner : Mr.S.R.R.Raaghavan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.33 of 2016 pending on the file of Principal Sub Court, Chengalpattu and transfer the same to the file of Sub Court, Panruti, to be tried along with H.M.O.P.No.34 of 2016 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 03.07.2011 as per Hindu rites and customs. Due to torture and cruelty by the respondent, the petitioner left the matrimonial home. The respondent filed H.M.O.P.No.33 of 2016 on the file of Principal Sub Court, Chengalpattu, for divorce, against the petitioner on the ground of cruelty. The petitioner also filed H.M.O.P.No.34 of 2016 on the file of Sub Court, Panruti, against the respondent for restitution of conjugal rights. Further, the petitioner filed D.V.C.No.2 of 2016 against the respondent before the Judicial Magistrate's Court No.I, Panruti, for maintenance and return of articles and the same is pending.

3.According to the petitioner, she is residing along with her aged parents at Panruti. The distance between Panruti and

Chengalpattu is more than 120 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Chengalpattu for each and every hearing. Further, she is not having any independent income and she is depending on her parents for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.33 of 2016 pending on the file of Principal Sub Court, Chengalpattu, to the file of Sub Court, Panruti, to be tried along with H.M.O.P.No.34 of 2016 pending on its file.

4.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 in the cause list, there is no representation on behalf of 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. 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.33 of 2016 is ordered to be withdrawn from the file of Principal Sub Court, Chengalpattu and transferred to the file of the Sub Court, Panruti, to be tried along with H.M.O.P.No.34 of 2016 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Principal Subordinate Judge, Chengalpattu, is directed to transmit all the records pertaining to H.M.O.P.No.33 of 2016 to the file of Sub Court, Panruti, 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.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

LPP/kj

To

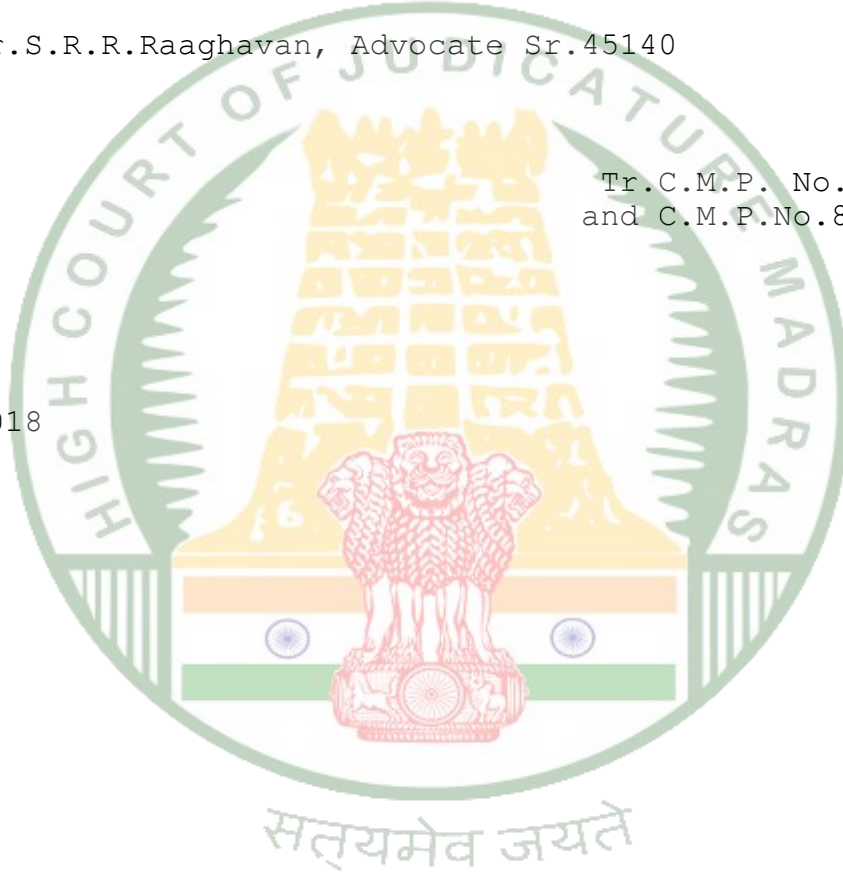
1.The Principal Subordinate Judge,
Chengalpattu.

2.The Subordinate Judge,
Panruti.

+2cc to Mr.S.R.R.Raaghavan, Advocate Sr.45140

Tr.C.M.P. No.324 of 2018
and C.M.P.No.8215 of 2018

srg 9/8/2018



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