

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.326 of 2018

and C.M.P.No.8315 of 2018

B.Jagadheswari ... Petitioner

Vs.

R.Vijay Kumar ... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.49 of 2018 filed by the respondent and pending on the file of the Family Court, Chengalpet and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Mr.Adinarayana Rao

For Respondent : Mr.M.Arun for Mr.T.K.S.Gandhi

O R D E R

This petition is filed to withdraw F.C.O.P.No.49 of 2018 pending on the file of the Family Court, Chengalpet 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 12.02.2014 as per Hindu rites and customs. In the wedlock, a male child was born on 18.03.2015. The respondent tortured the petitioner demanding dowry and hence, the petitioner left the matrimonial home. The respondent filed F.C.O.P.No.49 of 2018 on the file of the Family Court, Chengalpet, for divorce against the petitioner.

3.According to the petitioner, she is residing at Ayapakkam, Chennai along with her minor son. The distance between Chennai and Chengalpet is 63 kilometers and hence, it will be very difficult for her to go to Chengalpet along with her minor son to attend the Court proceedings for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer F.C.O.P.No.49 of 2018 pending on the file of the Family Court, Chengalpet, to the file of the Family Court, Chennai.

4.The learned counsel for the petitioner submitted that

though the petitioner has filed the present Transfer Petition to transfer the case to the Family Court, Chennai, she has no objection to transfer the case to the Sub Court, Poonamallee.

5.The learned counsel for the respondent submitted that if the case is transferred to the Sub Court, Poonamallee, the respondent has to travel more than 30 kilometers to attend the Court at Poonamallee and hence, it will be very difficult for him to travel such a long distance and prayed for dismissal of the Transfer Petition.

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

7.The contention of the learned counsel for the petitioner is that the petitioner is residing at Ayapakkam, Chennai and hence, it will be very difficult for her to attend the Court at Chengalpet along with her minor son and if the case is transferred to Sub Court, Poonamallee, it will be convenient for her to attend the Court proceedings, as Poonamallee is nearer to her residence. The said contention has considerable force.

8.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.

9.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in F.C.O.P.No.49 of 2018 is ordered to be withdrawn from the file of the Family Court, Chengalpet and transferred to the file of the Sub Court, Poonamallee. The learned Judge, Family Court, Chengalpet, is directed to transmit all the records pertaining to F.C.O.P.No.49 of 2018 to the file of the Sub Court, Poonamallee, 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

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To

1.The District Judge, Family Court, Chengalpattu.

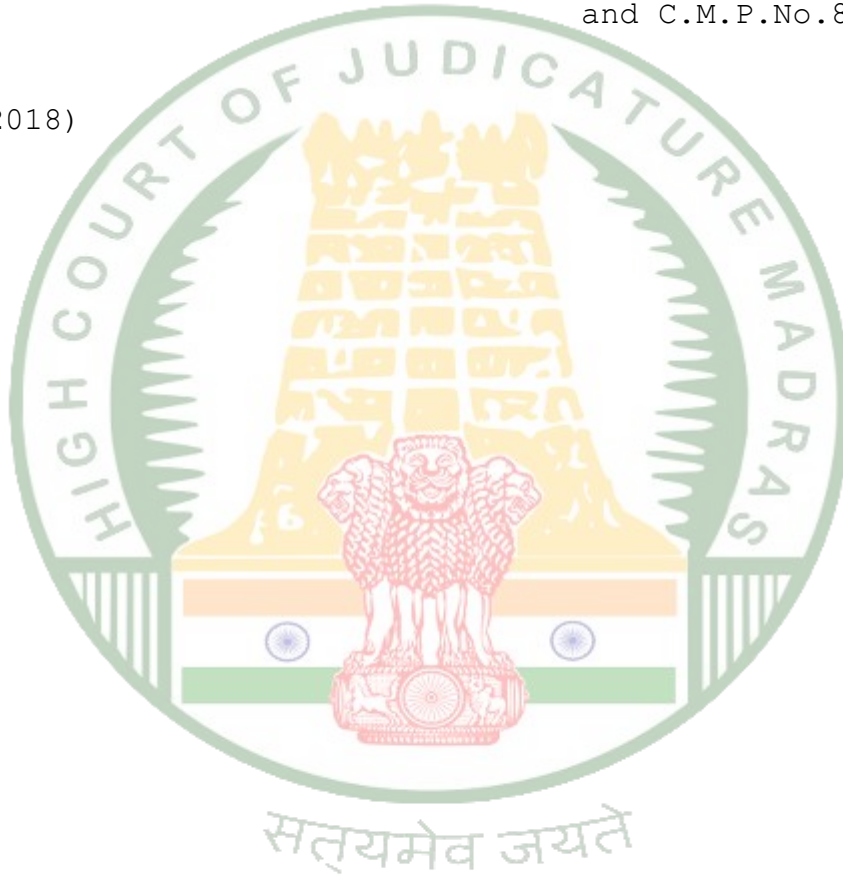
2. The Sub Judge, Poonamallee.

+1cc to Mr.ADINARAYANA RAO, Advocate, S.R.No.41113

+1cc to Mr.TKS.GANDHI, Advocate, S.R.No.41674

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