

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.337 of 2018
and C.M.P.No.8638 of 2018

P.S.Minni Starina Evangelin

... Petitioner

Vs.

S.Aravind Peace Adhiban

... Respondent

Prayer:

Petition is filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.9 of 2018 pending on the file of the Family Court, Vellore and transfer the same to any other competent Court in the District of Tuticorin or before IV Judicial Magistrate Court, Tirunelveli, to be tried along with D.V.No.7 of 2017 pending on its file.

For Petitioner : Mr.M.A.Abdul Wahab

For Respondent : Mr.Rajkumar Paul

O R D E R

This petition is filed to withdraw I.D.O.P.No.9 of 2018 pending on the file of the Family Court, Vellore and transfer the same to any other competent Court in the District of Tuticorin or before IV Judicial Magistrate Court, Tirunelveli, to be tried along with D.V.No.7 of 2017 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 20.09.2000 as per Christian Rites and Customs. In the wedlock, two children were born. Due to torture and cruelty by the respondent and his family members, the petitioner left the matrimonial home and residing along with her parents in a

village near Tuticorin. The petitioner has filed D.V.No.7 of 2017 before the IV Judicial Magistrate Court, Tirunelveli against the respondent for maintenance. While so, the respondent filed I.D.O.P.No.9 of 2018 before the Family Court, Vellore for divorce.

3. According to the petitioner, she is residing in Vadakkur at Tuticorin along with the minor children. The distance between her village at Tuticorin and Vellore is more than 550 kms. She is not having independent income to maintain herself and minor children. Being a lady, it will be very difficult for her to travel from Tuticorin to Vellore to attend each and every hearings. In the circumstances, she has filed the present Transfer Civil Miscellaneous Petition to transfer I.D.O.P.No.9 of 2018 pending on the file of the Family Court, Vellore to any other competent Court in the District of Tuticorin or before the IV Judicial Magistrate Court, Tirunelveli, to be tried along with D.V.No.7 of 2017.

4. The learned counsel for the respondent denied all the allegations made by the petitioner and contended that the Court at Tuticorin has no jurisdiction to decide the matrimonial dispute. The mother of the respondent is 86 years old and it will be very difficult for the respondent and his mother to travel from Vellore to Tuticorin to attend the Court proceedings and prayed for dismissal of the Transfer Civil Miscellaneous 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 the 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.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in I.D.O.P.No.9 of 2018 is ordered to be withdrawn from the file of the Family Court, Vellore and transferred to the file of the IV Judicial Magistrate Court, Tirunelveli to be tried along with D.V.No.7 of 2017 filed by the petitioner. The learned Judge, Family Court, Vellore is directed to transmit all the records pertaining to I.D.O.P.No.9 of 2018

to the file of the IV Judicial Magistrate Court, Tirunelveli 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 IV)

//True Copy//

Sub Assistant Registrar

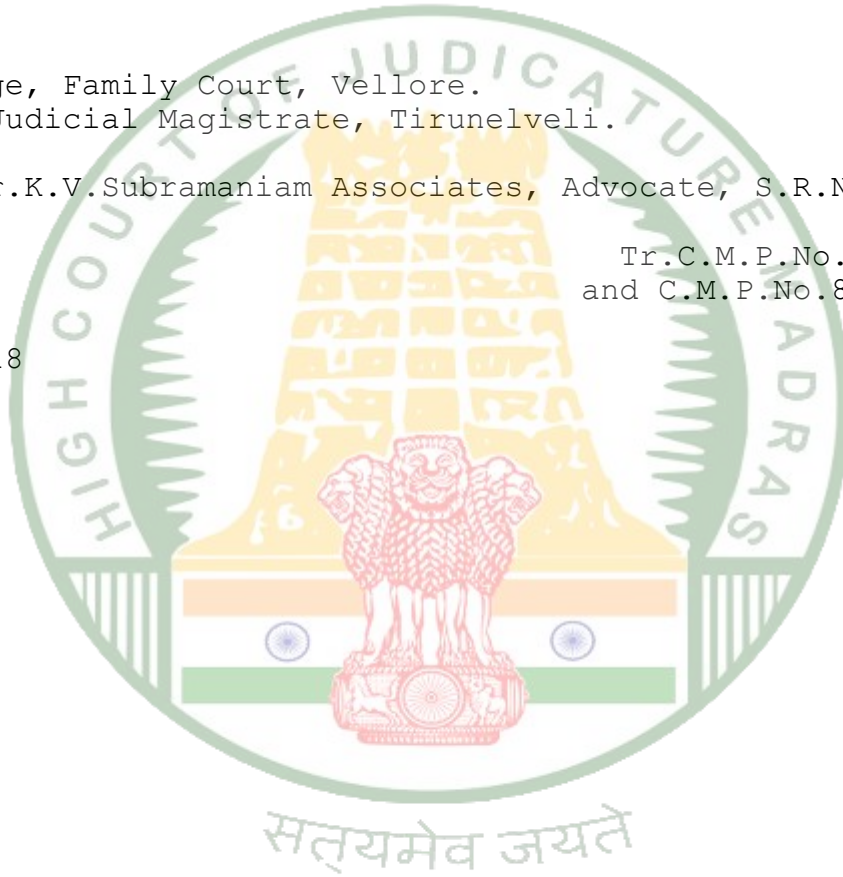
gsa
To

- 1.The Judge, Family Court, Vellore.
- 2.The IV Judicial Magistrate, Tirunelveli.

+1cc to Mr.K.V.Subramaniam Associates, Advocate, S.R.No.49551

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PVS (CO)
CS/30/08/18



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