

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.07.2018
CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.351 of 2018
and C.M.P.No.9505 of 2018

Niranchana Devi

... Petitioner

Vs.

Ramamoorthy

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw F.C.H.M.O.P.No.15 of 2018 pending on the file of Family Court, Ariyalur and transfer the same to the file of Family Court, Tiruchirapalli for disposal on merits.

For Petitioner : Ms.J.Tamilarasi
For Respondent : Mr.S.Kamadevan

O R D E R

This petition is filed to withdraw F.C.H.M.O.P.No.15 of 2018 pending on the file of Family Court, Ariyalur and transfer the same to the file of Family Court, Tiruchirapalli for disposal on merits.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 27.11.2014 as per Hindu rites and customs. In the wedlock, a female child was born on 14.11.2015. Due to the torture and cruelty by the respondent and his family members, the petitioner left the matrimonial home. The petitioner filed M.C.No.126 of 2017 seeking maintenance for herself and minor child before the Family Court at Tiruchirapalli and lodged a Domestic Violence Complaint in D.V.C.No.22 of 2018 before the Additional Mahila Court, Tiruchirapalli. The respondent filed F.C.H.M.O.P.No.15 of 2018 on the file of Family Court, Ariyalur against the petitioner for restitution of conjugal rights.

3.According to the petitioner, she is residing at Tiruchirapalli along with her aged parents and minor child. The petitioner is not having any independent income and depending on her aged parents for maintaining herself and the minor child. Being a lady, it will be very difficult for her to travel from Tiruchirapalli to Ariyalur to attend each and every hearing along with the minor child. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer F.C.H.M.O.P.No.15 of

2018 pending on the file of Family Court, Ariyalur to the file of the Family Court, Tiruchirapalli.

4.The learned counsel for the respondent filed counter affidavit and the same was objected by the learned counsel for the petitioner, contending that the respondent is making unnecessary allegations against the counsel who is appearing for the petitioner in F.C.H.M.O.P.No.15 of 2018 before the Family Court at Ariyalur. Subsequently, the learned counsel for the respondent submitted that he would withdraw all the allegations made against the counsel who is appearing for the respondent in the lower Court. The learned counsel for the respondent further submitted that the other two cases viz., M.C.No.126 of 2017 and D.V.C.No.22 of 2018 filed by the petitioner are pending before the Family Court at Tiruchirapalli and Additional Mahila Court at Tiruchirapalli respectively. If F.C.H.M.O.P.No.15 of 2018 is transferred to Family Court, Tiruchirapalli, it will be very difficult for the respondent to travel from Ariyalur to Tiruchirapalli to attend each and every hearing. He also prayed for transfer of all the cases filed by the petitioner to the file of the Family Court at Perambalur.

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. 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 F.C.H.M.O.P.No.15 of 2018 is ordered to be withdrawn from the file of Family Court, Ariyalur and transferred to the file of Family Court, Tiruchirapalli. The learned Judge, Family Court, Ariyalur is directed to transmit all the records pertaining to F.C.H.M.O.P.No.15 of 2018 to the file of the Family Court, Tiruchirapalli, 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/-
Deputy Registrar

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To

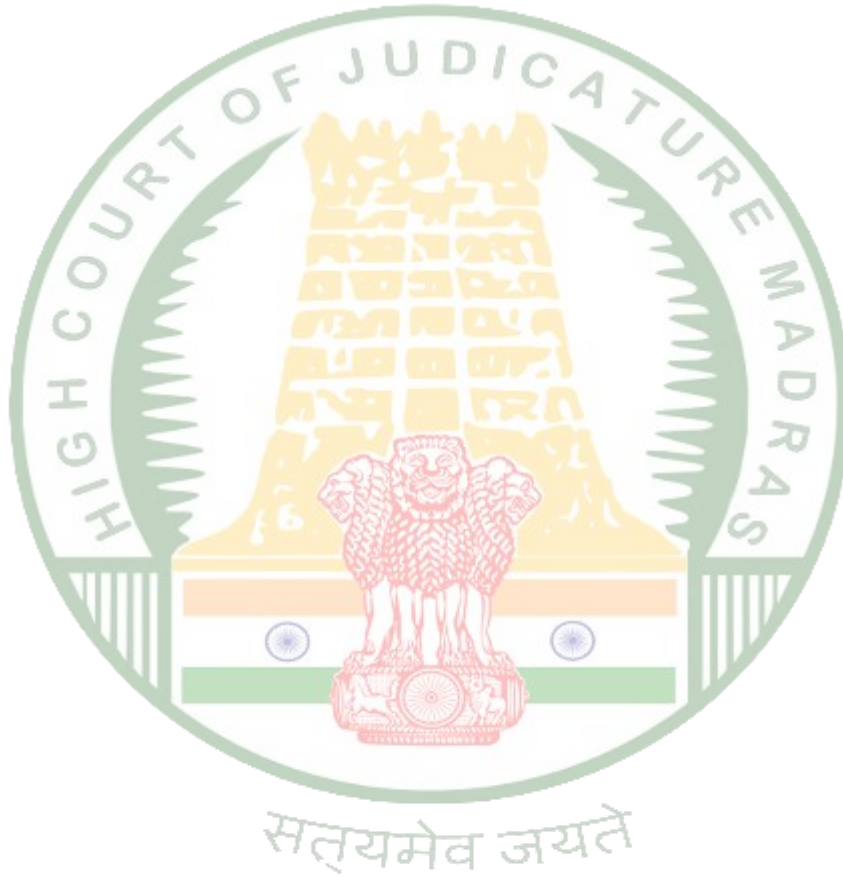
1.The Judge, Family Court, Ariyalur.

2.The Judge, Family Court, Tiruchirapalli.

+1cc to Mr.S.Kamadevan, Advocate SR.No.49706

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SMI/29.08.2018



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