

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.358 of 2018
and C.M.P.No.9773 of 2018

S.Shehanaz

.. Petitioner

Vs.

S.Mohammad Javeeth

.. Respondent

PRAYER: This petition has been filed under Section 24 of C.P.C to withdraw the suit O.S.No.5 of 2018 pending on the file of the Family Court, Madurai and transfer the same to the file of the Family Court, Salem.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mr.G.Saravanan

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the suit O.S.No.5 of 2018 pending on the file of the Family Court, Madurai and transfer the same to the file of the Family Court, Salem.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 17.08.2014 as per Muslim Rites and Customs. In the wed-lock a male child was born on 14.04.2016. Due to difference of opinion, the respondent thrown the petitioner out of the matrimonial home. While so, the respondent has filed O.S.No.5 of 2018 before the Family Court at Madurai for restitution of conjugal rights.

3.According to the petitioner she is now residing at Salem along with her parents. The distance between Salem and Madurai is more than 500 kms to and fro. Hence, it will be very difficult for her to travel such a long distance to attend each and every hearing along with the minor son. She has to leave the house early in the morning and come back late in the night. The petitioner is not having any independent income and she is depending on her parents for her day-to-day expenses, including travelling expenses. The respondent is working and residing at

Chennai. Only to harass the petitioner, he has filed O.S.No.5 of 2018 before the Family Court at Madurai. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer O.S.No.5 of 2018 pending on the file of the Family Court at Madurai to the Family Court at Salem.

4.The learned counsel for the petitioner submitted that the respondent is working and residing at Chennai and hence, it will be easy for him to attend Family Court at Salem, instead of attending the Family Court at Madurai. The petitioner has also made various allegations against the respondent.

5.The learned counsel for the respondent denied all the allegations made against the respondent. The respondent has filed H.M.O.P for restitution of conjugal rights and he is ready to pay travelling expenses and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

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

7.Considering the contention of the learned counsel for the petitioner as well as 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.

8.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The suit in O.S.No.5 of 2018 is ordered to be withdrawn from the file of the Family Court, Madurai and transferred to the file of the Family Court, Salem. The learned Judge, Family Court, Madurai is directed to transmit all the records pertaining to O.S.No.5 of 2018 to the file of the Family Court, Salem 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 VIII)

//True copy//

Sub Assistant Registrar

gsa

To

1.The Judge, Family Court,
Salem.

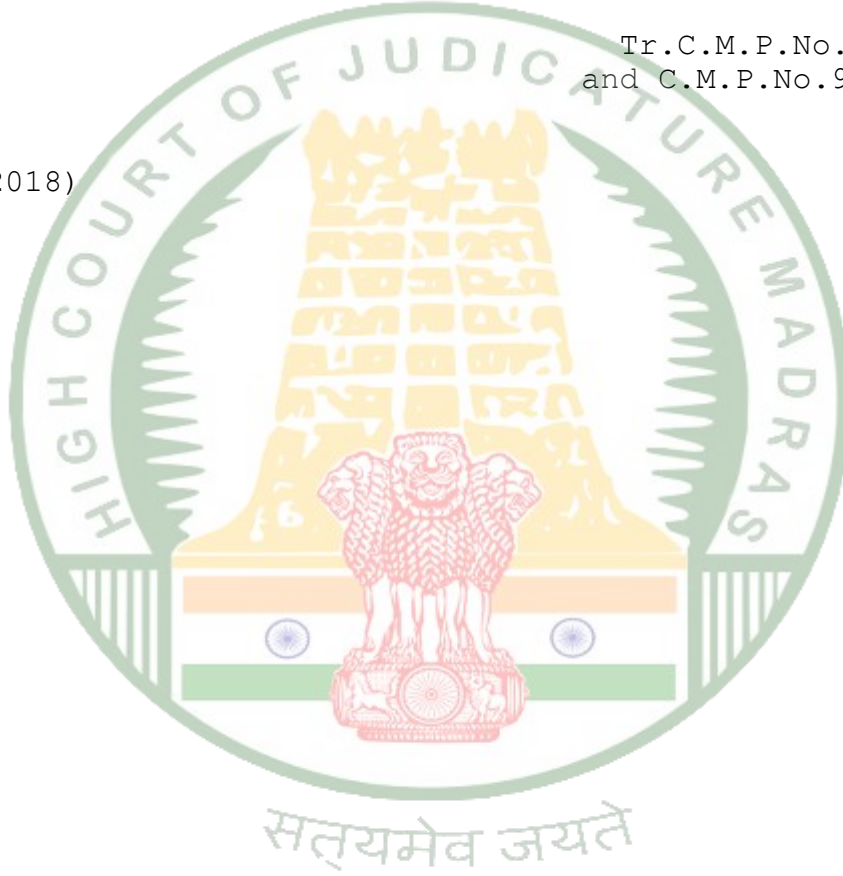
2.The Judge, Family Court,
Madurai.

+lcc to Mr.S.Venkatesh, Advocate SR.No.40594

+lcc to Mr.G.Saravanan, Advocate SR.No.40294

Tr.C.M.P.No.358 of 2018
and C.M.P.No.9773 of 2018

GN(12/07/2018)



WEB COPY