

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.691 of 2015
& M.P.No.1 of 2015

M.Chitra

.. Petitioner

Vs.

Maheshwaran

.. Respondent

PRAYER: Petition has been filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.48 of 2014 pending on the file of the Subordinate Court, Cheyyar, Thiruvannamalai District and transfer the same to the file of the Family Court, Coimbatore to be tried along with H.M.O.P.No.1424 of 2014.

For Petitioner : M/s.Giritharan
for Mr.N.Stalin

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.48 of 2014 pending on the file of the Subordinate Court, Cheyyar, Thiruvannamalai District and transfer the same to the file of the Family Court, Coimbatore, to be tried along with H.M.O.P.No.1424 of 2014.

2.The petitioner is wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 05.04.2007 at Arulmigu Nangai Umaiyamman Thirukovil near Peedampalli as per Hindu Rites and Customs. Two female children were born in the wedlock. After the delivery of first child, both the petitioner and respondent were living together at Pappampatti, Coimbatore. After the birth of second child, the respondent demanded more dowry to compensate the loss he suffered in the business. Subsequently, he left the petitioner and took away all her certificates and also sold some household articles. In spite of the search by the petitioner, the whereabouts of the respondent was not known to her. While so,

the respondent sent a notice through his Advocate on 03.07.2014 for dissolution of marriage. The petitioner sent a reply dated 23.07.2014, stating that she is always willing to join with him and filed H.M.O.P.No.1424 of 2014 on the file of the Family Court, Coimbatore for restitution of conjugal rights. The respondent only with an intention to harass the petitioner has filed H.M.O.P.No.48 of 2014 on the file of the Subordinate Court, Cheyyar for divorce.

3. According to the petitioner, she is residing at Coimbatore along with her children, getting help from her aged mother. The distance between Coimbatore and Cheyyar is nearly 600 kms. It is very difficult for her to travel such a long distance and spend money to attend each and every Court proceedings at Cheyyar. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.48 of 2014 pending on the file of the Subordinate Court, Cheyyar to the file of the Family Court, Coimbatore to be tried along with H.M.O.P.No.1424 of 2014.

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 for him either in person or through counsel.

5. It is well settled law that whenever the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by 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]. Further as per the provisions of the Hindu Marriage Act, the place of residence of wife must be taken into account.

6. Having regard to the submissions made by the learned counsel for the petitioner and the decisions of the Hon'ble Apex Court referred to above and the residence of the petitioner at Coimbatore, the petition in H.M.O.P.No.48 of 2014 is ordered to be withdrawn from the file of the Subordinate Court, Cheyyar, Thiruvannamalai District and transferred to the file of the Family Court, Coimbatore to be tried along with H.M.O.P.No.1424 of 2014 in the interest of justice, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Cheyyar, Thiruvannamalai district, is directed to transmit all the records pertaining to H.M.O.P.No.48 of 2014 to the file of the Family Court, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsa

To

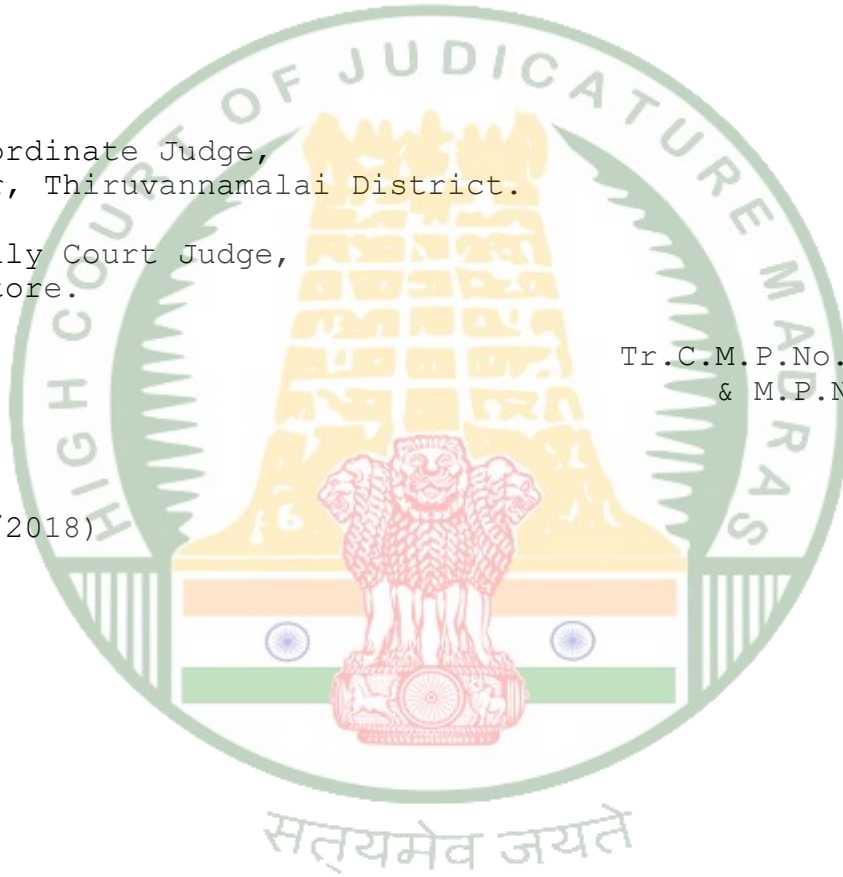
1.The Subordinate Judge,
Cheyyar, Thiruvannamalai District.

2.The Family Court Judge,
Coimbatore.

Tr.C.M.P.No.691 of 2015
& M.P.No.1 of 2015

CA(CO)

RRK(14/05/2018)



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