

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.372 of 2018

and C.M.P.No.10032 of 2018

B.Ramya

... Petitioner

Vs.

K.Balachandran

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.16 of 2018 pending on the file of Principal Sub Court, Pudukottai and transfer the same to the file of I Additional Family Court, Chennai.

For Petitioner

: Mr.R.Arunkumar

For Respondent

: No appearance

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O R D E R

This petition is filed to withdraw H.M.O.P.No.16 of 2018 pending on the file of Principal Sub Court, Pudukottai and transfer the same to the file of I Additional Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted

on 29.01.2010 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home with the respondent's parents. In the wedlock, a male child was born on 03.08.2012. Due to difference of opinion, the petitioner and respondent are living separately. The petitioner filed O.P.No.1722 of 2018 on the file of I Additional Family Court, Chennai against the respondent for divorce. The respondent filed H.M.O.P.No.16 of 2018 on the file of the Principal Sub Court, Pudukottai, against the petitioner for restitution of conjugal rights.

3. According to the petitioner, she is residing along with her aged parents and minor child at Chennai. The distance between Chennai and Pudukottai is more than 400 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Pudukottai. Further, she is not having any independent income and is depending on her parents for her day-to-day expenses including travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.16 of 2018 pending on the file of Principal Sub Court, Pudukottai, to the file of I Additional Family Court, Chennai, to be tried along with O.P.No.1722 of 2018, pending on its file.

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 on behalf of him either in person or through counsel.

5. Considering the above contention of the learned counsel for the petitioner 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.16 of 2018 is ordered to be withdrawn from the file of Principal Sub Court, Pudukottai and transferred to the file of I Additional Family Court, Chennai to be tried along with O.P.No.1722 of 2018 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Principal Subordinate Judge, Pudukottai, is directed to transmit all the records pertaining to H.M.O.P.No.16 of 2018 to the file of I Additional Family Court, Chennai, 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-CO)

//True copy//

Sub Assistant Registrar

LPP/arr

To

1.The Principal Subordinate Judge, Pudukottai.

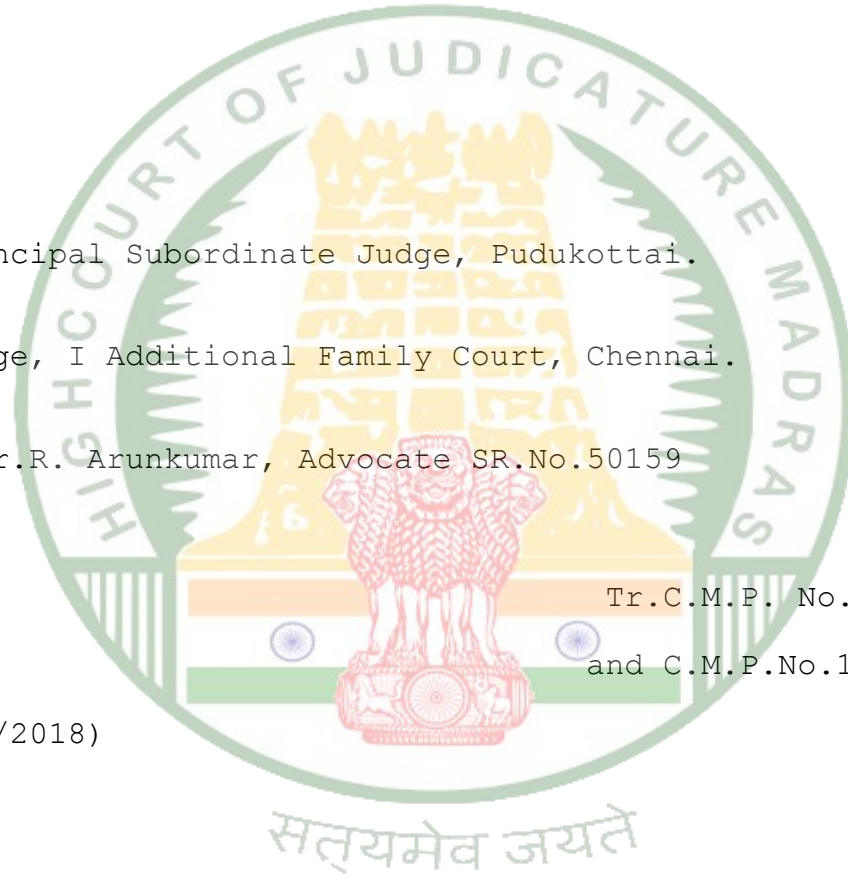
2.The Judge, I Additional Family Court, Chennai.

+2cc to Mr.R. Arunkumar, Advocate SR.No.50159

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and C.M.P.No.10032 of 201

GMV (06/09/2018)



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