

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.380 of 2018

and C.M.P.No.10163 of 2018

Kalaiselvi

... Petitioner

Vs.

Senthil

.... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.81 of 2018 pending on the file of Sub Court, Kallakurichi and transfer the same to the file of Sub Court, Viruthachalam.

For Petitioner : MS.N.Parameswari

For Respondent : Mr.Kaviri Nadan
for Mr.N.Manokaran

O R D E R

This petition is filed to withdraw H.M.O.P.No.81 of 2018 pending on the file of Sub Court, Kallakurichi and transfer the same to the file of Sub Court, Viruthachalam.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 18.03.2013 as per Hindu rites and customs. In the wedlock, two children were born. Due to dispute, the respondent often assaulted the petitioner and unable to bear the same, the petitioner left the matrimonial home along with her minor children. The respondent filed H.M.O.P.No.81 of 2018 on the file of Sub Court, Kallakurichi, for divorce against the petitioner.

3.According to the petitioner, she is residing in her parents home at Thittakudi, Cuddalore District, along with her minor children. The distance between Thittakudi and Kallakurichi is more than 60 kilometers and being a lady, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Kallakurichi, along with her minor children. The petitioner is not having any independent income

and she has to spend huge amount for attending all hearings and conducting case at Kallakurichi. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.81 of 2018 pending on the file of Sub Court, Kallakurichi, to the file of Sub Court, Viruthachalam.

4.The learned counsel for the respondent submitted that the respondent is residing at Kallakurichi and distance between Kallakurichi and Viruthachalam is more than 60 kilometers and hence, it will be very difficult for him to attend the Court proceedings at Viruthachalam and prayed for dismissal of the Transfer 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 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 H.M.O.P.No.81 of 2018 is ordered to be withdrawn from the file of Sub Court, Kallakurichi and transferred to the file of Sub Court, Viruthachalam. The learned Subordinate Judge, Kallakurichi, is directed to transmit all the records pertaining to H.M.O.P.No.81 of 2018 to the file of Sub Court, Viruthachalam, 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)

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Sub Assistant Registrar

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To

1.The Subordinate Judge, Kallakurichi.

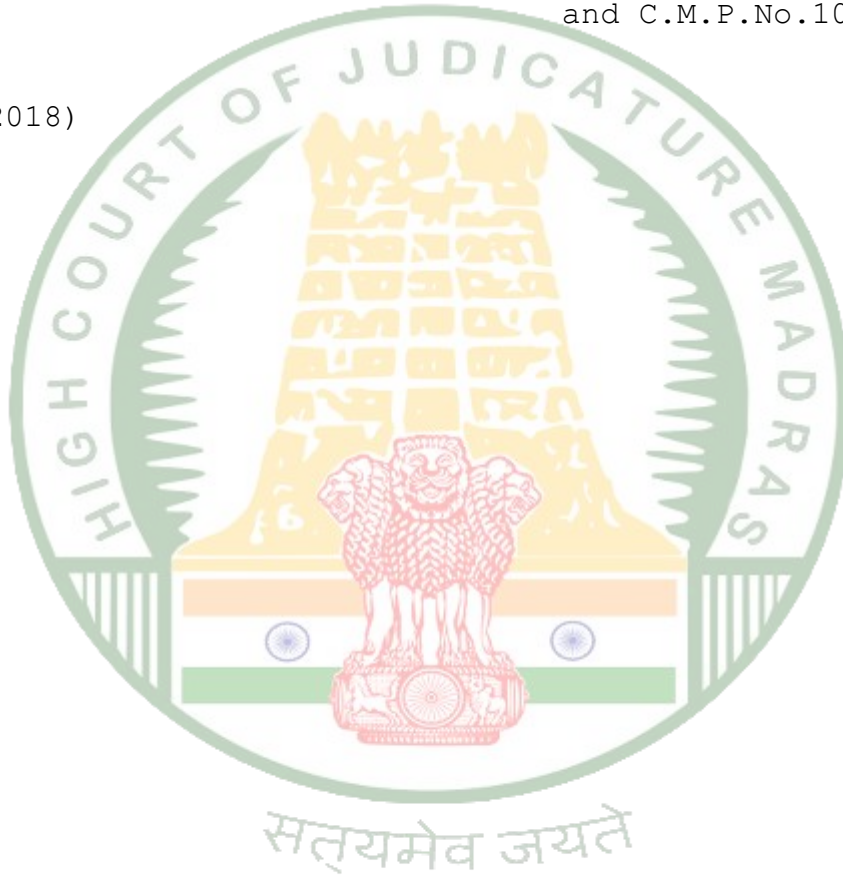
2.The Subordinate Judge, Viruthachalam.

+1cc to Mr.N.MANOKARAN, Advocate, S.R.No.46345

+1cc to Mr.V.VIJAYAKUMR, Advocate, S.R.No. 46044

Tr.C.M.P. No.380 of 2018
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VBA (CO)
TR(03/08/2018)



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