

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.384 of 2018
and C.M.P.No.10231 of 2018

Yogeswari

... Petitioner

Vs.

M.Sekar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.302 of 2017 pending on the file of Family Court, Sivagangai and transfer the same to the file of Sub Court, Ponneri.

For Petitioner : Ms.G.Gayathri
for Mr.P.Chandra Sekar
For Respondent : M/s.Greetha Senthil Kumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.302 of 2017 pending on the file of Family Court, Sivagangai and transfer the same to the file of Sub Court, Ponneri.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 02.02.2014 as per Hindu rites and customs. The respondent tortured the petitioner and thrown her out from the matrimonial home. While so, the respondent filed H.M.O.P.No.302 of 2017 on the file of Family Court, Sivagangai for restitution of conjugal rights against the petitioner.

3.According to the petitioner, she is residing at Chennai along with her aged parents and there is no other male person available in the family to accompany and assist her to attend the Court proceedings at Sivagangai. The distance between Chennai and Sivagangai is more than 500 kilometers and she is spending more than Rs.3,000/- for every hearing and hence, it will be very difficult for her to appear before the Court at Sivagangai regularly. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.302 of 2017 pending on the file of Family Court, Sivagangai to the file of the Sub Court at Ponneri.

4.The learned counsel for the petitioner also stated that the respondent is working in a tea shop at Chennai. Only to harass the petitioner, he has filed H.M.O.P.No.302 of 2017, before the Family Court at Sivagangai.

5.The learned counsel for the respondent submitted that the respondent underwent surgery and he is not residing in Chennai. It will be very difficult for him to travel to Ponneri to attend each and every hearing 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.The contention of the learned counsel for the petitioner is that she is living in Chennai along with the aged parents and it will be very difficult for her to travel from Chennai to Sivagangai to attend each and every hearing. The respondent is also working and residing in Chennai. The respondent submitted that he underwent surgery in the year 2016 and it will be very difficult for him to travel to Ponneri. While so, the respondent has not filed any document to show that he is bedridden to the extent that he cannot travel to Ponneri to attend the Court proceedings.

8.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.

9.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.302 of 2017 is ordered to be withdrawn from the file of Family Court, Sivagangai and transferred to the file of Sub Court, Ponneri. The learned Judge, Family Court, Sivagangai is directed to transmit all the records pertaining to H.M.O.P.No.302 of 2017 to the file of the Sub Court at Ponneri, 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.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

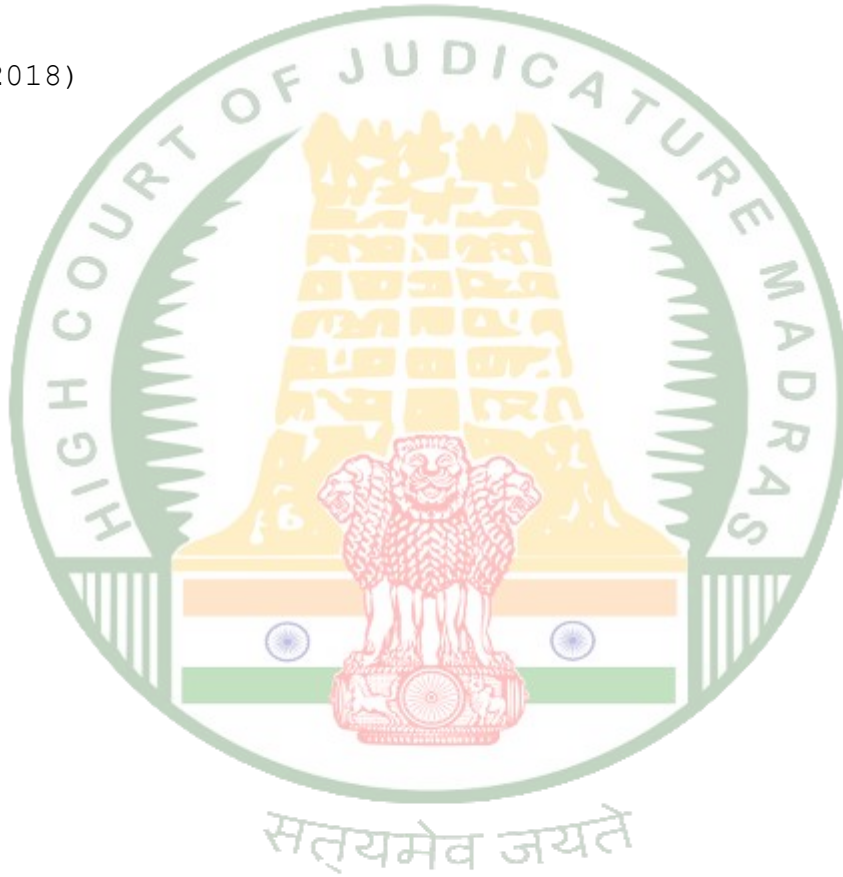
1.The Subordinate Judge, Ponneri.

2.The Judge, Family Court, Sivagangai.

+1 CC to M/s. P. Chandrasekar, Advocate sr 50750.

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SP (04/09/2018)



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