

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.39 of 2018
and C.M.P.No.1077 of 2018

M.Lavanya

... Petitioner

Vs.

M.Ravishankar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.670 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Principal Family Court, Coimbatore, to try along with M.C.No.181 of 2017 pending on its file.

For Petitioner : M/S.S.P.Arthi
For Respondent : Mr.I.Jesu

O R D E R

This petition is filed to withdraw H.M.O.P.No.670 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Principal Family Court, Coimbatore, to try along with M.C.No.181 of 2017 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 31.10.2003 as per Hindu rites and customs. In the wedlock, a female child was born on 01.04.2006. She was deserted by the respondent and left the matrimonial home on 30.06.2017. The petitioner filed M.C.No.181 of 2017 on the file of the Principal Family Court, Coimbatore, claiming maintenance from the respondent. The respondent filed H.M.O.P.No.670 of 2017 on the file of the Subordinate Court, Tambaram, for divorce against the petitioner making false allegations.

3.According to the petitioner, she is residing at Coimbatore along with her parents and minor daughter. The distance between Coimbatore and Tambaram is nearly 550 kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings at Tambaram. She has made various allegations in the petition against the respondent on merits.

In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.670 of 2017 pending on the file of the Subordinate Court, Tambaram, to the file of the Principal Family Court, Coimbatore, to try along with M.C.No.181 of 2017 pending on its file.

4.The learned counsel for the respondent filed counter affidavit and made various allegations against the petitioner and denied all the averments made in the petition. According to the respondent, he is doing very small business and hence, he is finding it difficult to maintain himself and to travel to Coimbatore to attend the Court proceedings. On the other hand, the petitioner is working as a Teacher in a school at Coimbatore and is earning a sum of Rs.30,000/- as salary and Rs.20,000/- by taking private tuition and it will not be difficult for her to go to Tambaram to attend the Court proceedings. The learned counsel for the respondent further contended that the petitioner can be represented by the counsel and appeared before the Subordinate Court, Tambaram. Therefore, he 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 contentions of the petitioner as well as the respondent, the respondent has not disputed that the petitioner is residing at Coimbatore at present. As per Section 19 of the Hindu Marriage Act, residence of wife must be given preference. In addition to that, it is 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. At the same time, the contention of the learned counsel for the respondent that the respondent is doing small business and he is only earning meager income also must be taken into consideration.

7.In view of the above facts, it will be in the interest of justice, the petition in H.M.O.P.No.670 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Tambaram and the petition in M.C.No.181 of 2017 is ordered to be withdrawn from the file of the Principal Family Court, Coimbatore and transferred to the file of the Subordinate Court, Tiruppur, so that the parties can represent through Advocate. The learned Subordinate Judge, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.670 of 2017 to the file of the Subordinate Court, Tiruppur and the learned Principal Judge, Family Court, Coimbatore, is directed to transmit all the records pertaining to M.C.No.181 of 2017 to the file of the Subordinate Court, Tiruppur, within a period of two weeks from

the date of receipt of a copy of this order.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

1. The Subordinate Judge, Tiruppur.

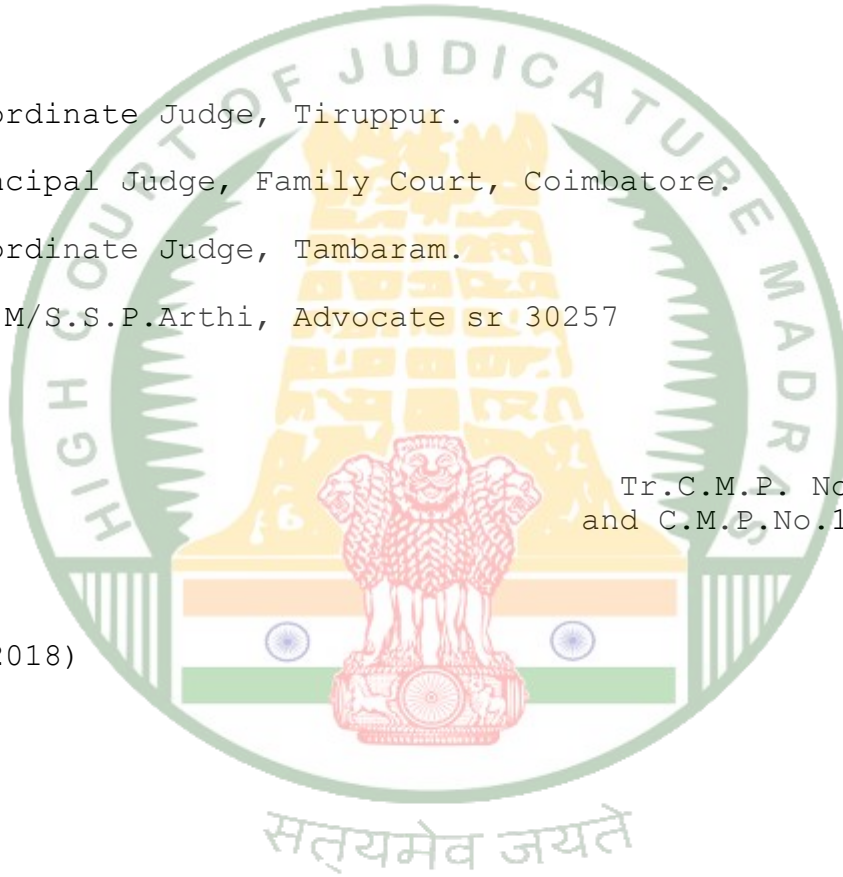
2. The Principal Judge, Family Court, Coimbatore.

3. The Subordinate Judge, Tambaram.

+2 Ccs to M/S.S.P.Arthi, Advocate sr 30257

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NA (CO)
SP (15/05/2018)



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