

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.399 of 2018

and C.M.P.No.10532 of 2018

R.Banupriya ... Petitioner/Respondent

Vs.

S.Kumaravelu ... Respondent/Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.149 of 2018 pending on the file of the Sub Court, Tambaram, Kanchipuram District and transfer the same to the file of the Sub Court, Mayiladuthurai, Nagapattinam District.

For Petitioner : Mr.D.Dayalan for Mr.R.Sudhakar

For Respondent : Mr.V.G.Guhan Murugan for
Mr.R.Balachandran

O R D E R

This petition is filed to withdraw H.M.O.P.No.149 of 2018 pending on the file of the Sub Court, Tambaram, Kanchipuram District and transfer the same to the file of the Sub Court, Mayiladuthurai, Nagapattinam District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 26.06.2013 as per Hindu rites and customs. In the wedlock, a female child was born on 02.04.2014. Due to difference of opinion, both the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.149 of 2018 on the file of the Sub Court, Tambaram, Kanchipuram District, for divorce against the petitioner.

3.According to the petitioner, she is residing in her parents home in a village near Sirkali, Nagapattinam District, along with her minor child. The distance between Sirkali and

Tambaram is more than 220 kilometers and being a lady, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Tambaram. She is not working and she is depending on her parents for her day-to-day expenses including travelling expenses. Further, her minor daughter is studying in a school at Meenatchi Vidyalaya Matriculation School, Puthur, Sirkali Taluk, Nagapattinam District. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.149 of 2018 pending on the file of the Sub Court, Tambaram, Kanchipuram District, to the file of Sub Court, Mayiladuthurai, Nagapattinam District.

4.The learned counsel for the respondent submitted that the respondent is working in Abudhabi and hence, it will be very difficult for him to attend the Court proceedings at Mayiladuthurai, Nagapattinam District. The petitioner is not residing at Sirkali and she is working as Assistant Software Engineer at TATA Consultancy Services, Siruseri, Chennai. The petitioner has come out with the present Transfer Petition only to drag on the proceedings and prayed for dismissal of the Transfer Petition.

5.In reply to the contention of the learned counsel for the respondent, the learned counsel for the petitioner contended that earlier, the petitioner was working at Chennai, now she left the job and is residing in her parents home at Sirkali along with her minor child. He has also produced a receipt for payment of school fees of the petitioner's minor daughter.

6.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

7.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.

8.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.149 of 2018 is ordered to be withdrawn from the file of the Sub Court, Tambaram, Kanchipuram District and transferred to the file of the Sub Court, Mayiladuthurai, Nagapattinam District. The learned Subordinate Judge, Tambaram, Kanchipuram District, is directed to transmit all the records pertaining to H.M.O.P.No.149 of 2018 to the file

of the Sub Court, Mayiladuthurai, Nagapattinam District, 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 (CO)

//True Copy//

Sub Assistant Registrar

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To

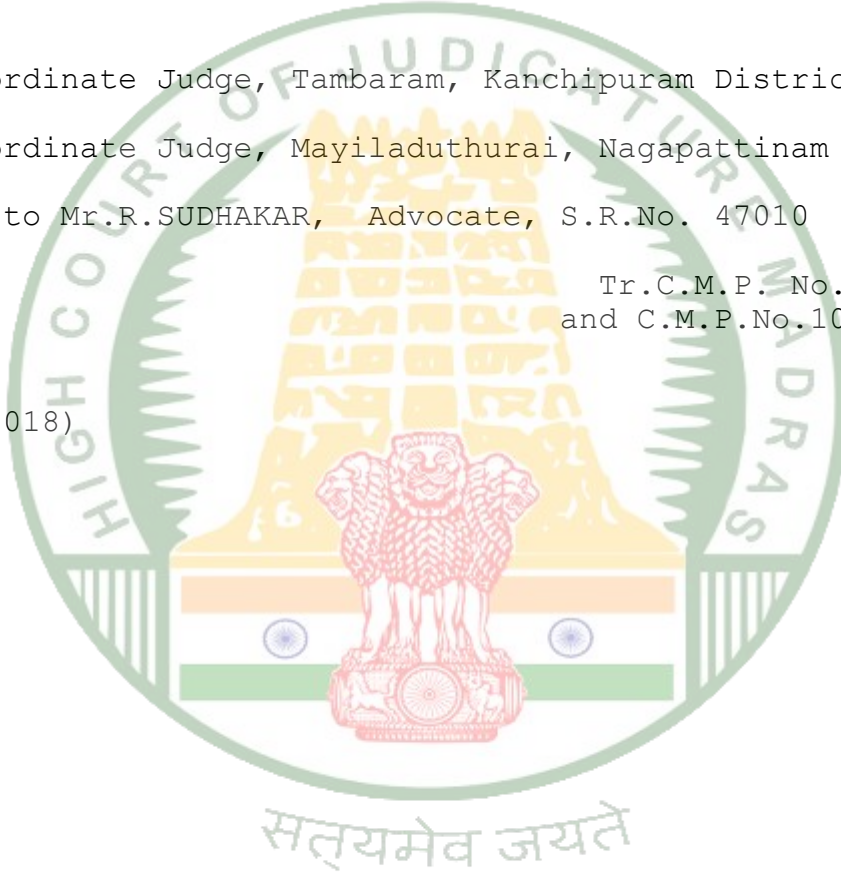
1.The Subordinate Judge, Tambaram, Kanchipuram District.

2.The Subordinate Judge, Mayiladuthurai, Nagapattinam District.

+1cc to Mr.R.SUDHAKAR, Advocate, S.R.No. 47010

Tr.C.M.P. No.399 of 2018
and C.M.P.No.10532 of 2018

KJ (CO)
TR (07/08/2018)



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