

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.400 of 2018

R.Aswin Kannappa

... Petitioner

Vs.

P.V.Induja

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.13 of 2018 pending on the file of Sub Court, Panruti and transfer the same to Family Court, Nagercoil, to try along with H.M.O.P.No.9 of 2018.

For Petitioner : Mr.P.Sam Japa Singh

For Respondent : Mr.K.Sankaran

O R D E R

This petition is filed to withdraw H.M.O.P.No.13 of 2018 pending on the file of the Sub Court, Panruti and transfer the same to the file of the Family Court, Nagercoil, to try along with H.M.O.P.No.9 of 2018.

2.The petitioner is husband and respondent is wife. The marriage between petitioner and respondent was conducted on 05.02.2017 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Nagercoil. Due to difference of opinion, both the petitioner and respondent are living separately. The petitioner filed H.M.O.P.No.9 of 2018 before the Family Court, Nagercoil, for restitution of conjugal rights, against the respondent. The respondent filed H.M.O.P.No.13 of 2018 against the petitioner on the file of the Sub Court, Panruti, for declaration of marriage conducted between the petitioner and respondent as null and void.

3.The learned counsel for the petitioner contended that the petitioner is working and residing at Nagercoil. The distance between Nagercoil and Panruti is more than 500 kilometers, he has to spend more than 12 hours for travelling and hence, he finds it very difficult to travel such a long distance to attend

the Court proceedings at Panruti. The respondent is studying M.E. at Nagercoil. Without having any jurisdiction, the respondent has filed H.M.O.P.No.9 of 2018 before the Sub Court, Panruti, by creating documents to show that she is residing at Panruti. On the date of filing of the said H.M.O.P., she was studying in a college at Nagercoil. If H.M.O.P.No.13 of 2018 is transferred to Family Court, Nagercoil, it will be convenient for both the petitioner and respondent.

4.The learned counsel for the respondent filed counter and contended that the respondent has obtained B.E. Degree in Electronics and Communications. Thereafter, she obtained M.E. Degree in Medical Electronics in the year June 2018. During the course of her study, she attended a clinic namely, J.V.R.Maternity Home, Cuddalore, as an intern. With an intention to get appointment as Bio-Medical Engineer in Manakula Vinayakar Medical College Hospital, Pondicherry, to qualify herself for the post, she continued her internship in the said clinic to gain experience. For that purpose, she is residing at Cuddalore, took up a house on lease at Panruti and she is staying along with her mother. If the case is transferred to Sub Court, Nagercoil, she will be put to irreparable loss and hardship.

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

6.Considering the fact that the respondent is residing only at Panruti along with her mother and also taking into consideration 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. The learned counsel for the petitioner has not given any valid reason for transfer. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Panruti.

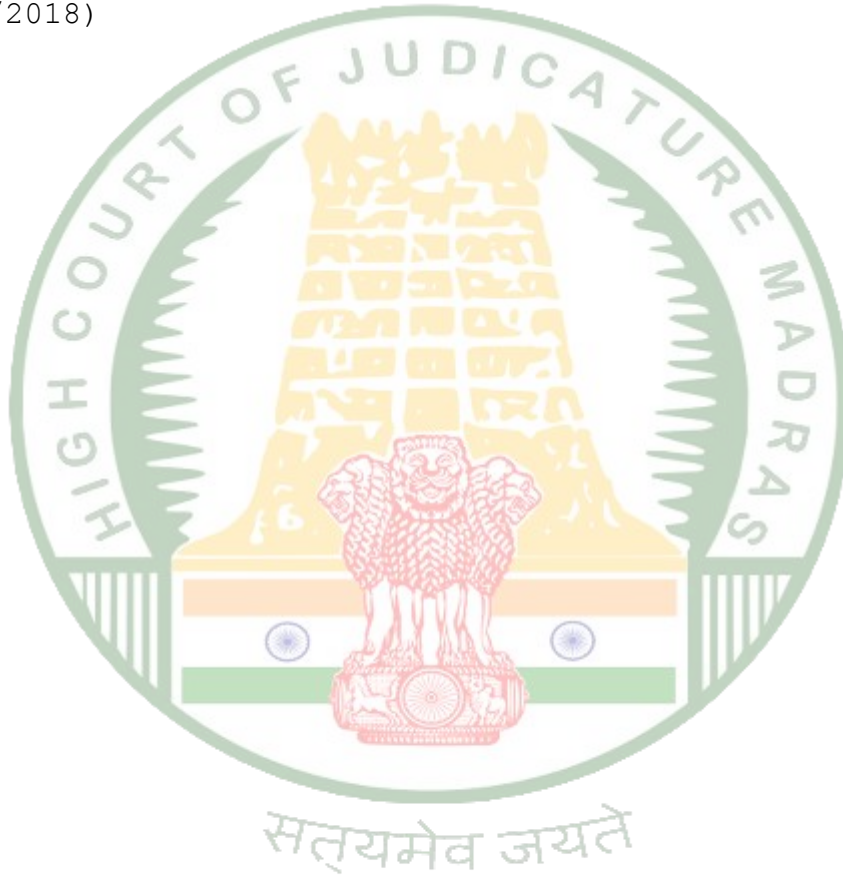
+1cc to Mr.P.Samjapa singh, Advocate, S.R.No.46961

+1cc to Mr.K.Sankaran, Advocate, S.R.No.46822

Tr.C.M.P. No.400 of 2018

SS (CO)

GSP (21/08/2018)



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