

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.407 of 2018

and C.M.P.No.10742 of 2018

V.Geethalakshmi

... Petitioner

Vs.

G.Karthikeyan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.35 of 2018 pending on the file of Sub Court, Dharapuram and transfer the same to the file of Principal Sub Court, Tiruppur.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.T.Senthil Kumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.35 of 2018 pending on the file of Sub Court, Dharapuram and transfer the same to the file of Principal Sub Court, Tiruppur.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 24.08.2017 as per Hindu rites and customs. The respondent often harassed the petitioner and unable to bear the cruelty, the petitioner left the matrimonial home. The respondent filed H.M.O.P.No.35 of 2018 on the file of Sub Court, Dharapuram, for restitution of conjugal rights, against the petitioner.

3.According to the petitioner, she is residing in her parents home at Tiruppur. The distance between Tiruppur and Dharapuram is 50 kilometers and being a lady, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Dharapuram. Her parents are suffering from various ailments and she has no one to accompany her to go to Dharapuram to attend the Court proceedings. The petitioner is not having any independent income and she has to spend huge amount for travelling. The petitioner has also filed I.A.No.202 of 2018 in H.M.O.P.SR.No.2074 of 2018 on the file of Principal Sub Court, Tiruppur, for grant of leave to file divorce petition within one year and the same is pending. In order to avoid

multiplicity of proceedings and conflicting judgments being rendered by two different Courts, H.M.O.P.No.35 of 2018 may be transferred from Sub Court, Dharapuram to Principal Sub Court, Tiruppur.

4.The learned counsel for the respondent submitted that the respondent is residing at Dharapuram, distance between Dharapuram and Tiruppur is 50 kilometers and hence, it will be very difficult for him to attend the Court proceedings at Tiruppur 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.35 of 2018 is ordered to be withdrawn from the file of Sub Court, Dharapuram and transferred to the file of Principal Sub Court, Tiruppur, to be tried along with I.A.No.202 of 2018 in H.M.O.P.SR.No.2074 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting decisions being rendered by two different Courts. The learned Subordinate Judge, Dharapuram, is directed to transmit all the records pertaining to H.M.O.P.No.35 of 2018 to the file of Principal Sub Court, Tiruppur, 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 V)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Dharapuram.

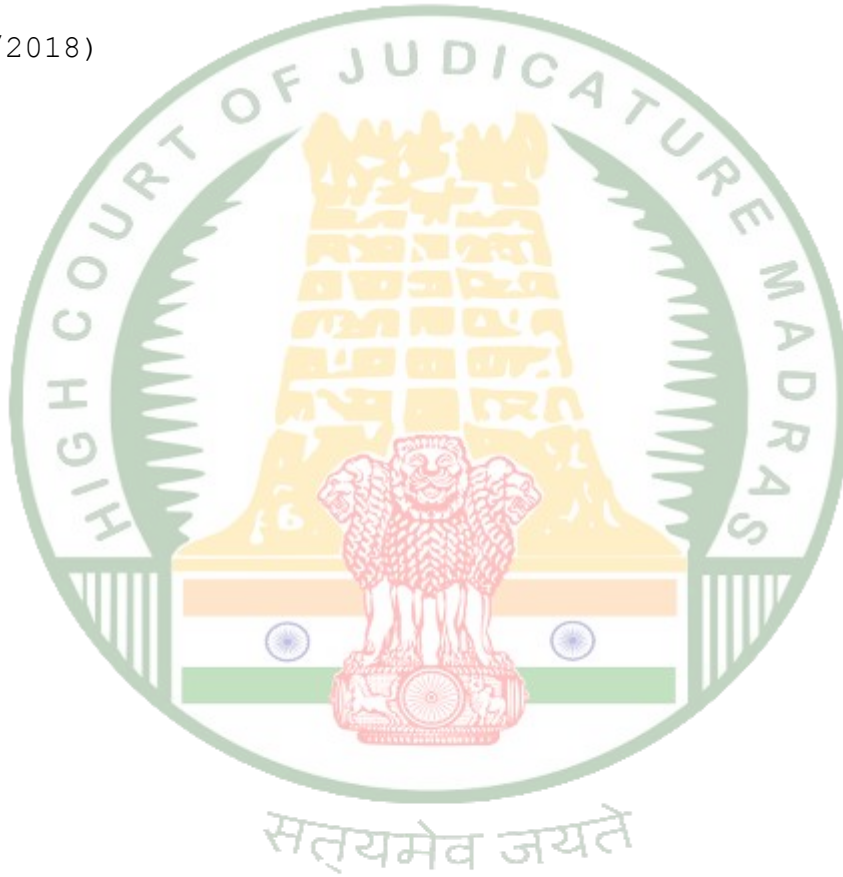
2.The Principal Subordinate Judge, Tiruppur.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.46651

+1cc to Mr.T.Senthil Kumar, Advocate, S.R.No.46804

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KJI (CO)
GSP (09/08/2018)



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