

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.410 of 2018
and C.M.P.No.10777 of 2018

P.Priyadarshini

... Petitioner

Vs.

P.Karthikeyan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.360 of 2018 pending on the file of Sub Court, Tambaram and transfer the same to the file of Family Court, Madurai.

For Petitioner : Mr.D.Ponventhan

For Respondent : Mr.R.Narayanan

O R D E R

This petition is filed to withdraw H.M.O.P.No.360 of 2018 pending on the file of Sub Court, Tambaram and transfer the same to the file of Family Court, Madurai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 06.12.2013 as per Hindu rites and customs. In the wedlock, a male child was born on 03.01.2015. Due to torture by the respondent, the petitioner left the matrimonial home. The respondent filed H.M.O.P.No.360 of 2018 on the file of Sub Court, Tambaram for restitution of conjugal rights against the petitioner.

3.According to the petitioner, she is residing at Madurai along with her parents and minor child. The distance between Madurai and Tambaram is more than 500 kilometers and it will be very difficult for her to travel along with her minor child, to attend the Court proceedings for each and every hearing. She is not having any independent income and depending on her parents for maintaining herself and the minor child. In the circumstances, the petitioner has come out with the present

Tr.C.M.P. to transfer H.M.O.P.No.360 of 2018 pending on the file of Sub Court, Tambaram, to the file of Family Court, Madurai.

4.The learned counsel for the respondent submitted that the respondent is working as Marine Engineer and the Family Court at Madurai is not a jurisdictional Court. Further the presence of parties is mandatory for each and every hearing before the Family Court. He has also submitted that the respondent will be in ship for six months and hence it will be very difficult for him to attend the Court proceedings at Family Court, Madurai 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.360 of 2018 is ordered to be withdrawn from the file of Sub Court, Tambaram and transferred to the file of Principal Sub Court, Madurai. The learned Subordinate Judge, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.360 of 2018 to the file of Principal Sub Court, Madurai, 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 IX)

//True Copy//

Sub Assistant Registrar

LPP/arr

To

1.The Subordinate Judge,
Tambaram.

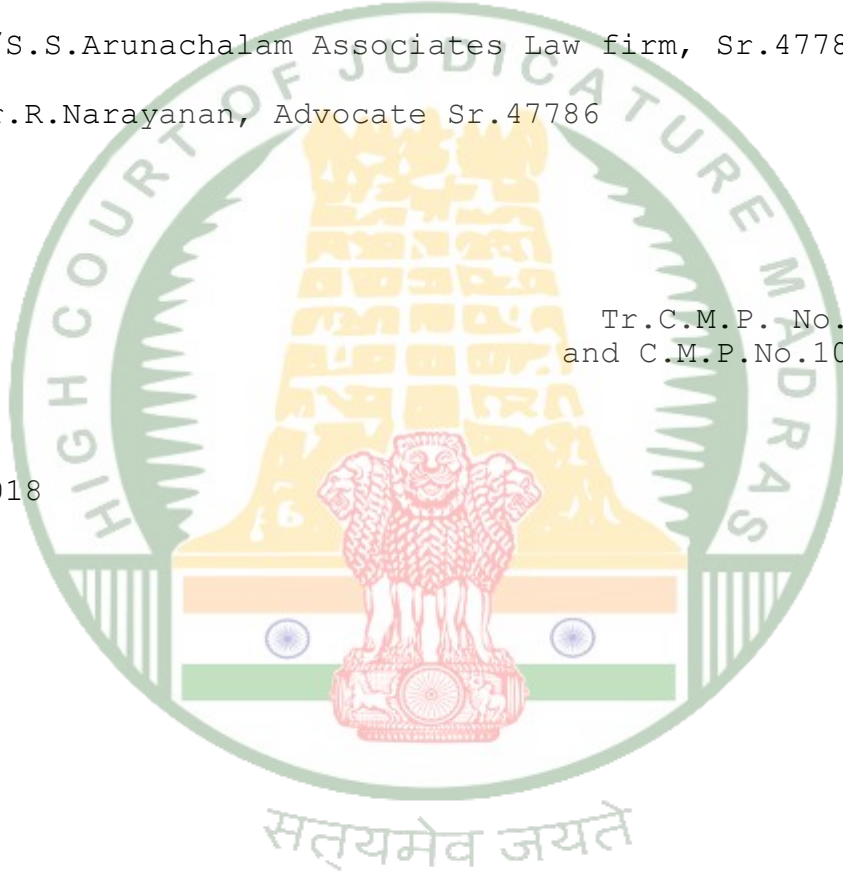
2.The Principal Subordinate Judge,
Madurai.

+1cc to M/S.S.Arunachalam Associates Law firm, Sr.47784

+3cc to Mr.R.Narayanan, Advocate Sr.47786

Tr.C.M.P. No.410 of 2018
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