

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.415 of 2018

and C.M.P.No.10844 of 2018

E.Srinithi

... Petitioner

Vs.

E.Saravana Kumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.188 of 2018 pending on the file of District Family Court, Erode and transfer the same to the file of any other Court in Namakkal.

For Petitioner : Mr.K.Anbarasan

For Respondent : Mr.P.Parthi Kannan
for Mr.S.Kaithamalai Kumaran

O R D E R

This petition is filed to withdraw F.C.O.P.No.188 of 2018 pending on the file of District Family Court, Erode and transfer the same to the file of any other Court in Namakkal.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 29.05.2017 as per Hindu rites and customs. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the respondent filed F.C.O.P.No.188 of 2018 on the file of District Family Court, Erode for divorce.

3.According to the petitioner, she is residing at Namakkal along with aged grand parents. She is not having any independent income and depending on her grand parents for maintaining her day-to-day expenses, including travelling expenses. The distance between Namakkal and Erode and is more than 70 kilometers and hence, being a lady, it will be very difficult for her to travel such a long distance to attend each and every hearings without

assistance. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer F.C.O.P.No.188 of 2018 pending on the file of District Family Court, Erode to the file of any other Court in Namakkal.

4.The learned counsel for the respondent submitted that if F.C.O.P is transferred to Namakkal, it will be very difficult for him to travel from Erode to Namakkal to attend the Court proceedings and prayed for dismissal of the Transfer Civil Miscellaneous 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 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.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in F.C.O.P.No.188 of 2018 is ordered to be withdrawn from the file of District Family Court, Erode and transferred to the file of Family Court, Namakkal. The learned District Judge, Family Court, Erode is directed to transmit all the records pertaining to F.C.O.P.No.188 of 2018 to the file of the Family Court at Namakkal, 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/-

सत्यमेव जयते Assistant Registrar (CO)

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WEB COPY Sub Assistant Registrar

gsa

To

1.The Judge, Family Court, Namakkal.

2.The District Judge, Family Court, Erode.

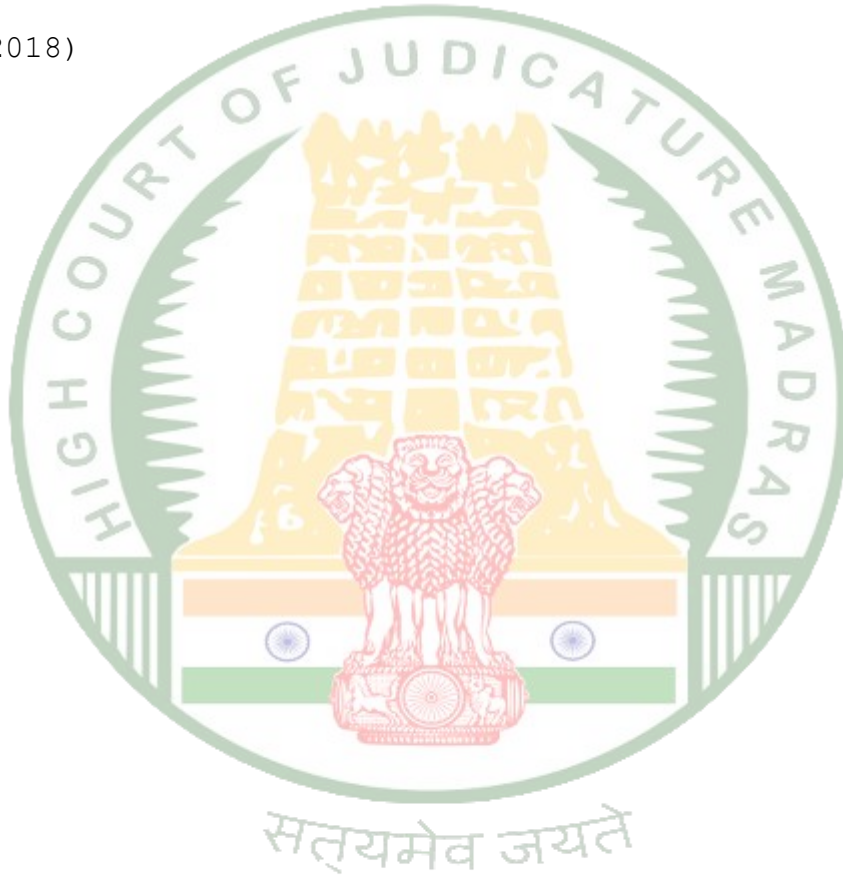
+1cc to Mr.S.KAITHAMALAI KUMARAN, Advocate, S.R.No.48775

+1cc to Mr.K.ANBARASAN, Advocate, S.R.No.49310

Tr.C.M.P. No.415 of 2018
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SV (CO)

TR(29/08/2018)



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