

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.426 of 2018  
and C.M.P.No.10981 of 2018

S.Bagavathi

... Petitioner

Vs.

K.Rathinavel

... Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.41 of 2018 pending on the file of the Sub Court, Kulithalai, Karur District and transfer the same to the file of the Sub Court, Tambaram, Kancheepuram District.

For Petitioner : Mr.P.Selvaraj

For Respondent : Mr.Mohamed Ashick

O R D E R

This petition is filed to withdraw H.M.O.P.No.41 of 2018 pending on the file of the Sub Court, Kulithalai, Karur District and transfer the same to the file of the Sub Court, Tambaram, Kancheepuram District.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.06.2016 as per Hindu Rites and Customs. Due to dispute, both the petitioner and respondent are living separately. While so, the petitioner filed H.M.O.P.No.88 of 2018 on the file of the Sub Court, Tambaram, Kancheepuram District for dissolution of marriage on the ground of cruelty. The respondent filed H.M.O.P.No.41 of 2018 on the file of the Sub Court, Kulithalai, Karur District for restitution of conjugal rights.

3.According to the petitioner, she is residing at Chrompet in Chennai along with her parents. Due to continuous torture by the respondent, she left the matrimonial home and is residing along with her parents from March 2017. The distance between Chrompet and Kulithalai is more than 330 kms. It will be very difficult for her to travel from Chrompet to Kulithalai to attend each and every hearing. In the circumstances, she has filed the present Transfer civil Miscellaneous Petition to transfer H.M.O.P.No.41 of 2018 pending on the file of the Sub Court, Kulithalai, Karur District to the file of Sub Court, Tambaram, Kancheepuram District.

4.The learned counsel for the respondent submitted that only before three months, the petitioner has shifted her residence to Chrompet and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

5.The learned counsel for the petitioner submitted that for more than two years, the petitioner is residing only at Chrompet. The respondent sent notice to the petitioner to the Chrompet address and the same was received by her only at Chrompet.

6.Heard the 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.41 of 2018 is ordered to be withdrawn from the file of the Sub Court, Kulithalai, Karur District and transferred to the file of the Sub Court, Tambaram, Kancheepuram District, to be tried along with H.M.O.P.No.88 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting decisions being delivered by two different Courts. The learned Subordinate Judge, Kulithalai, Karur District is directed to transmit all the records pertaining to H.M.O.P.No.41 of 2018 to the file of the Sub Court, Tambaram, Kancheepuram 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 (CS-VII)

// True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Kulithalai, Karur District.

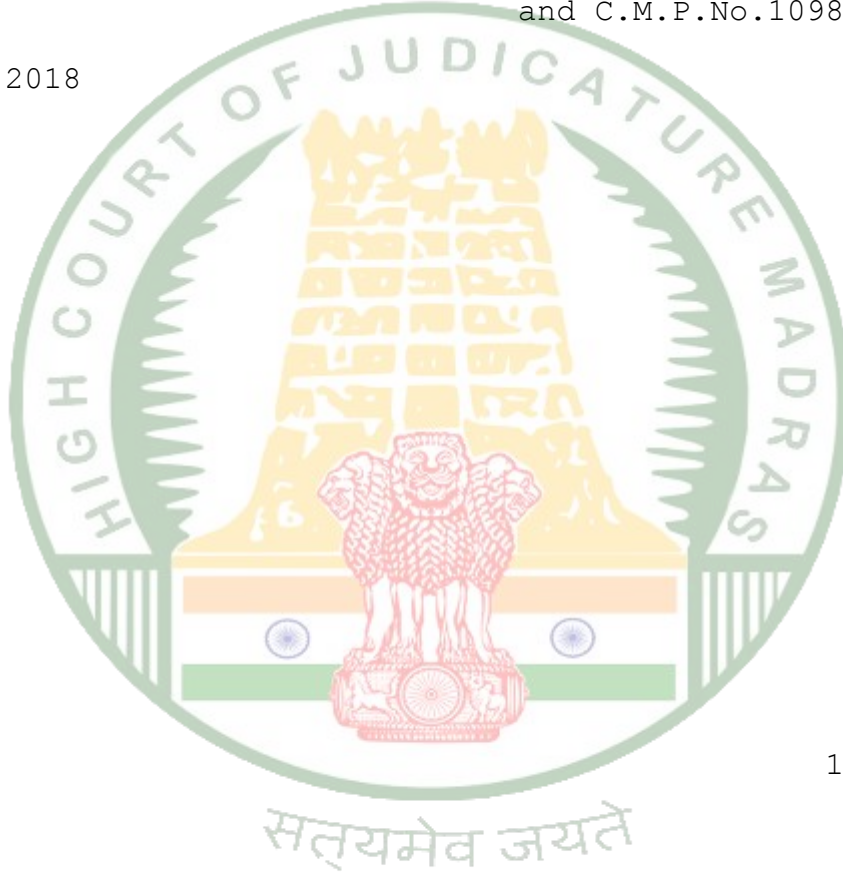
2.The Subordinate Judge, Tambaram, Kancheepuram District.

+2 cc to Mr.Mr.Mohamed Ashick , Advocate SR.No.47259

+1cc to Mr.Mr.P.Selvaraj, Advocate SR.No.46510

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KJI (CO)  
SMI/10.08.2018



16.07.2018

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