

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.431 of 2018
and C.M.P.No.11085 of 2018

V.Yamuna

... Petitioner

Vs.

V.S.Vijayakumar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.153 of 2017 pending on the file of Sub Court, Poonamallee and transfer the same to the file of Sub Court, Chidambaram.

For Petitioner : Mr.S.Umapathy

For Respondent : Mr.R.Santhanam

O R D E R

This petition is filed to withdraw H.M.O.P.No.153 of 2017 pending on the file of Sub Court, Poonamallee and transfer the same to the file of Sub Court, Chidambaram.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 24.06.2010 as per Hindu rites and customs. In the wedlock, two children were born. The respondent and his family members tortured the petitioner demanding dowry and thrown her out from the matrimonial home. While so, the respondent filed H.M.O.P.No.153 of 2017 on the file of Sub Court, Poonamallee for divorce.

3.According to the petitioner, she is residing at Chidambaram along with her brother and minor children. She is

not having any independent income and depending on her brother for maintaining herself and the minor children. The distance between Chidambaram and Poonamallee is more than 300 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 with the minor children. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.153 of 2017 pending on the file of Sub Court, Poonamallee to the file of the Sub Court at Chidambaram.

4.The learned counsel for the respondent filed counter affidavit and denied all the allegations made against the respondent. He submitted that before the Sub Court at Poonamallee, where H.M.O.P.No.153 of 2017 is pending, the petitioner can be represented through an Advocate and she can appear in person at the time of trial. He further submitted that the petitioner and her family members beaten the respondent for filing H.M.O.P. If he goes to Chidambaram to attend the Court proceedings, the life of the respondent will be at risk 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.The learned counsel for the respondent has not produced any document to prove his contention that family members of petitioner beaten him for filing petition for divorce and there is life threat to him if he goes to Chidambaram to attend the hearing. Without any acceptable documents, these contentions cannot be accepted. Further, the respondent can be represented by Advocate and can appear only during trial or as and when so directed by the learned Judge. 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 H.M.O.P.No.153 of 2017 is ordered to be withdrawn from the file of Sub Court, Poonamallee and transferred to the file of Sub Court, Chidambaram. The learned Subordinate Judge, Poonamallee is directed to transmit all the records pertaining to H.M.O.P.No.153 of 2017 to the file of the

Sub Court at Chidambaram, 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 II)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge, Chidambaram.

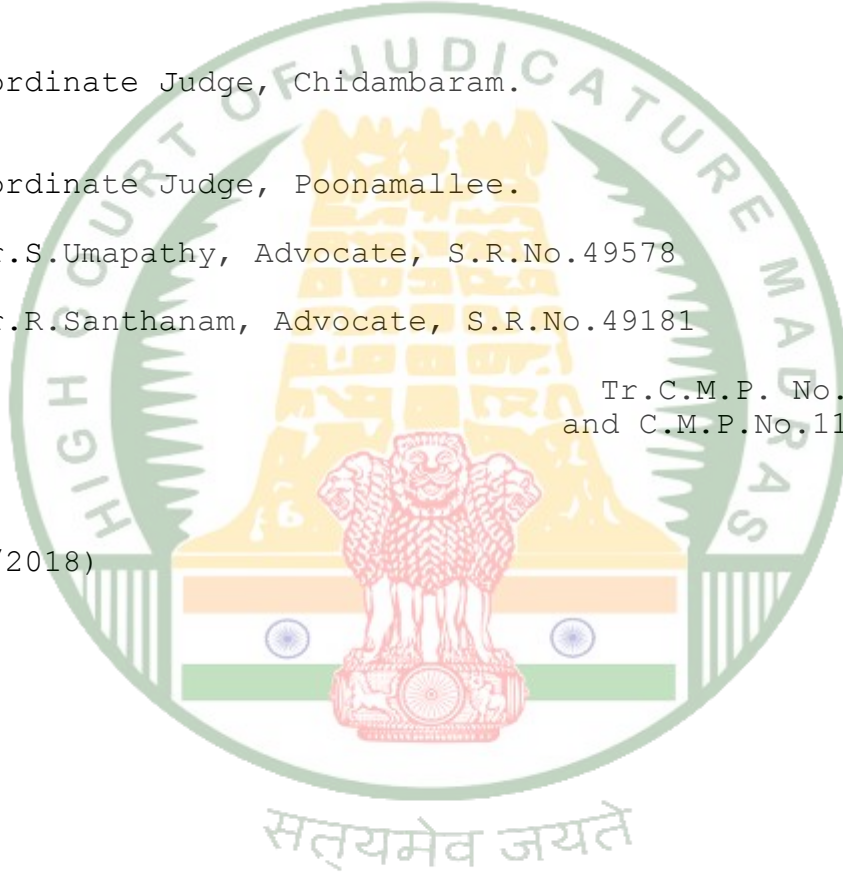
2.The Subordinate Judge, Poonamallee.

+1cc to Mr.S.Umapathy, Advocate, S.R.No.49578

+1cc to Mr.R.Santhanam, Advocate, S.R.No.49181

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GSP(03/08/2018)



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