

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.434 of 2018
and C.M.P.No.11156 of 2018

Anandhi

... Petitioner

Vs.

S.Sivasankar

... Respondent

Prayer:- Petition is filed under Section 21A of the Hindu Marriage Act read with 24 of C.P.C., to withdraw H.M.O.P.No.179 of 2017 pending on the file of Principal Sub Court, Cuddalore and transfer the same to the file of Sub Court, Arni, to be tried along with H.M.O.P.No.37 of 2018 pending on its file.

For Petitioner : Ms.G.Janaki
for Mr.V.Pavel

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.179 of 2017 pending on the file of Principal Sub Court, Cuddalore and transfer the same to the file of Sub Court, Arni, to be tried along with H.M.O.P.No.37 of 2018 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 16.12.2007 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Cuddalore. Due to torture and cruelty made by the respondent, the petitioner left the matrimonial home. Earlier, the respondent filed H.M.O.P.No.213 of 2016 on the file of Principal Sub Court, Cuddalore for divorce against the petitioner and the same was dismissed. Again the respondent filed H.M.O.P.No.179 of 2017 on the file of Principal Sub Court, Cuddalore for divorce against the petitioner, making false allegations. The petitioner also filed H.M.O.P.No.37 of 2018 before the Sub Court, Arni, against the respondent for restitution of conjugal rights.

3. According to the petitioner, she is a handicapped person and is residing along with her aged mother at Arni. The distance between Arni and Cuddalore is more than 110 kilometers and hence, it will be very difficult for her to attend the Court proceedings for each and every hearing at Cuddalore. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.179 of 2017 pending on the file of Principal Sub Court, Cuddalore, to the file of Sub Court, Arni, to be tried along with H.M.O.P.No.37 of 2018 pending on its file.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

5. Considering the above contention of the learned counsel for the petitioner 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.179 of 2017 is ordered to be withdrawn from the file of Principal Sub Court, Cuddalore and transferred to the file of Sub Court, Arni, to be tried along with H.M.O.P.No.37 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Principal Subordinate Judge, Cuddalore, is directed to transmit all the records pertaining to H.M.O.P.No.179 of 2017 to the file of Sub Court, Arni, 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.

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Sd/-
Assistant Registrar(Audit)

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Sub Assistant Registrar

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To

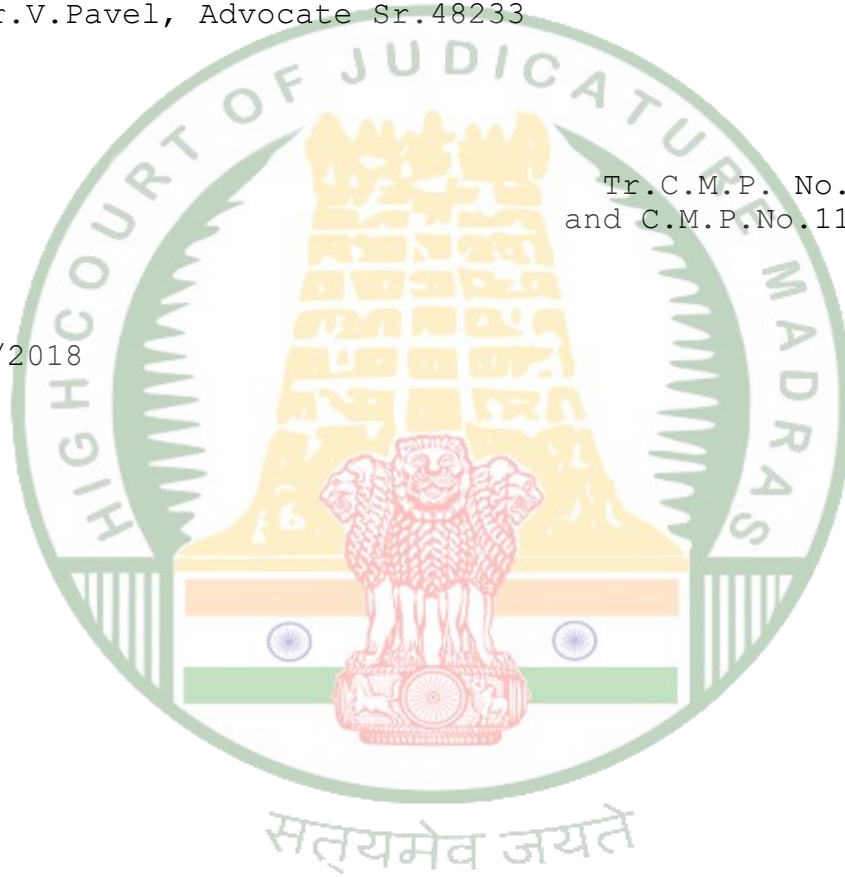
1.The Principal Subordinate Judge,
Cuddalore.

2.The Subordinate Judge,
Arni.

+1cc to Mr.V.Pavel, Advocate Sr.48233

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srg 30/08/2018



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