

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.451 of 2018
and
CMP.No.11573 of 2018

Mrs.Sangeetha @ P.Vijayalakshmi ... Petitioner

Vs.

N.Gowthaman ... Respondent

(Cause title amended as per order
of this Court dated 24.07.2018
made in C.M.P.No.12756 of 2018
in Tr.C.M.P.No.451/2018)

Prayer:- Petition is filed under Section 24 of C.P.C., to
withdraw and transfer H.M.O.P.No.276 of 2018 pending on the file
of Family Court, Namakkal to Family Court, Trichy.

For Petitioner : Mr.R.Govindaraj
For Respondent : Ms.Ashwini
for M/s.T.Dhanyakumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.276 of 2018
pending on the file of Family Court, Namakkal and transfer the
same to the file of Family Court, Trichy.

2.The petitioner is the wife and respondent is the husband.
The marriage between the petitioner and respondent was conducted
on 12.06.2014 as per Hindu rites and customs. After marriage,
both the petitioner and respondent were living in the
matrimonial home at Namakkal. The respondent treated the
petitioner cruelly, due to which she left the matrimonial home
and now she is living with her parents at Trichy. The respondent
filed H.M.O.P.No.276 of 2018 on the file of Family Court,
Namakkal for restitution of conjugal rights.

3.According to the petitioner, she is residing at Trichy
along with her aged parents. The distance between Trichy and
Namakkal is more than 120 kilometers and being a lady, it is
very difficult for her to go to Namakkal to attend the Court
proceedings for each and every hearing. Further, the petitioner

has no one to accompany her to go to Namakkal to attend the Court proceedings. She is not having independent income and she is depending on her parents for day-to-day expenses including travelling expenses. Further, the respondent is a practicing Advocate and he is having a lot of influence at the Bar. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.276 of 2018 pending on the file of Family Court, Namakkal, to the file of the Family Court, Trichy.

4.The learned counsel for the respondent submitted that if the case is transferred to Family Court, Trichy, it will be very difficult for him to travel from Namakkal to Trichy to attend the Court proceedings. He further submitted that the petitioner has already entered appearance and filed counter in H.M.O.P.No.276 of 2018 and hence 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.276 of 2018 is ordered to be withdrawn from the file of Family Court, Namakkal and transferred to the file of the Family Court, Trichy. The learned Judge, Family Court, Namakkal, is directed to transmit all the records pertaining to H.M.O.P.No.276 of 2018 to the file of the Family Court, Trichy, 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(Audit)

//True copy//

Sub Assistant Registrar

arr

To

1.The Presiding Judge,
The Family Court, Namakkal

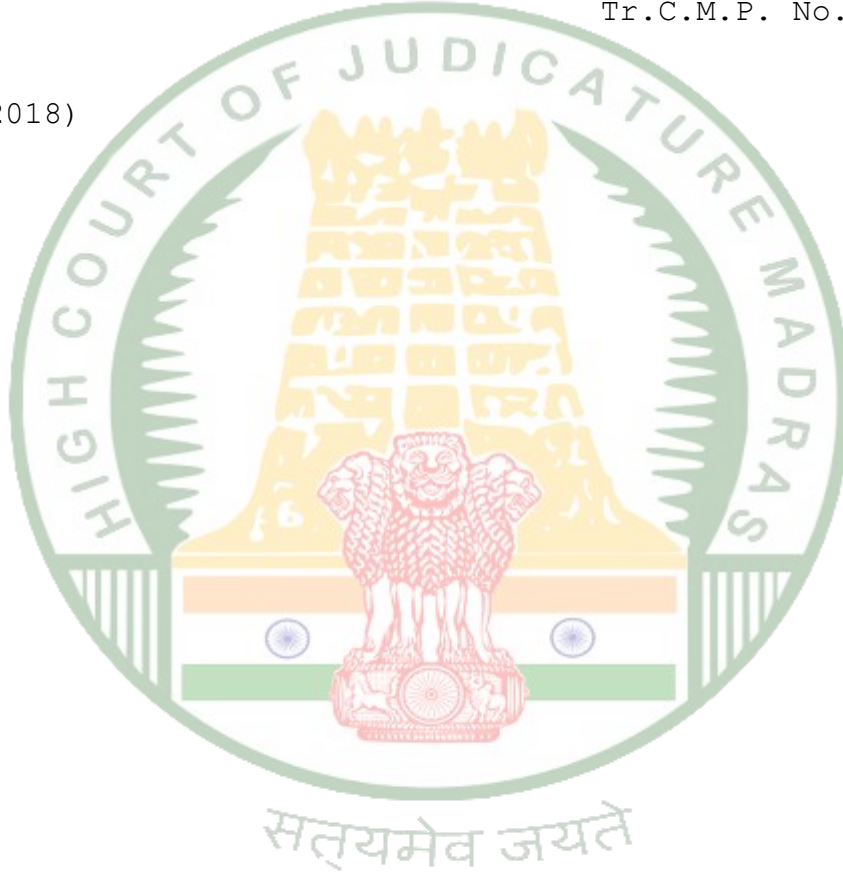
2.The Presiding Judge,
The Family Court, Trichy.

+lcc to Mr.R.Govindaraj, Advocate SR.No.49249

+lcc to Mr.T.Dhanya Kumar, Advocate SR.No.49590

Tr.C.M.P. No.451 of 2018

GJII(CO)
GN(29/08/2018)



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