

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.467 of 2018
and C.M.P.No.11720 of 2018

B.Shenbagam

... Petitioner

Vs.

R.S.Balaji

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.2195 of 2018 pending on the file of I Additional Family Court, Chennai and transfer the same to the file of Family Court, Villupuram.

For Petitioner : Mr.T.K.Saravanan

For Respondent : Ms.V.Kalaivani
for Mr.B.Devakumar

O R D E R

This petition is filed to withdraw H.M.O.P.No.2195 of 2018 pending on the file of I Additional Family Court, Chennai and transfer the same to the file of Family Court, Villupuram.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 11.09.2014 as per Hindu rites and customs. In the wedlock, two children were born on 05.10.2015 and 28.04.2018 respectively. Demanding dowry, the respondent and his parents tortured the petitioner and thrown her out from the matrimonial home. While so, the respondent filed H.M.O.P.No.2195 of 2018 on the file of I Additional Family Court, Chennai for divorce against the petitioner.

3.According to the petitioner, she is residing at Villupuram along with the minor children. The distance between Villupuram and Chennai is more than 165 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 leaving behind the minor children. There is also life threat for the petitioner if she goes to the Court at Chennai. In the circumstances, she has come

out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.2195 of 2018 pending on the file of I Additional Family Court, Chennai to the file of the Family Court at Villupuram.

4.The learned counsel for the respondent submitted that if H.M.O.P.No.2195 of 2018 is transferred to the file of the Family Court at Villupuram, the father of the respondent who is working in Police Department will influence the judiciary and hence, 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 respondent is opposing this petition on the misconception that petitioner's father will influence the judiciary at Villupuram. This misconception cannot be accepted by this Court.

7.Considering the 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.

8.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.2195 of 2018 is ordered to be withdrawn from the file of I Additional Family Court, Chennai and transferred to the file of Family Court, Villupuram. The learned I Additional Judge, Family Court, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.2195 of 2018 to the file of the Family Court at Villupuram, 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/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1.The I Additional Judge, Family Court,
Chennai.

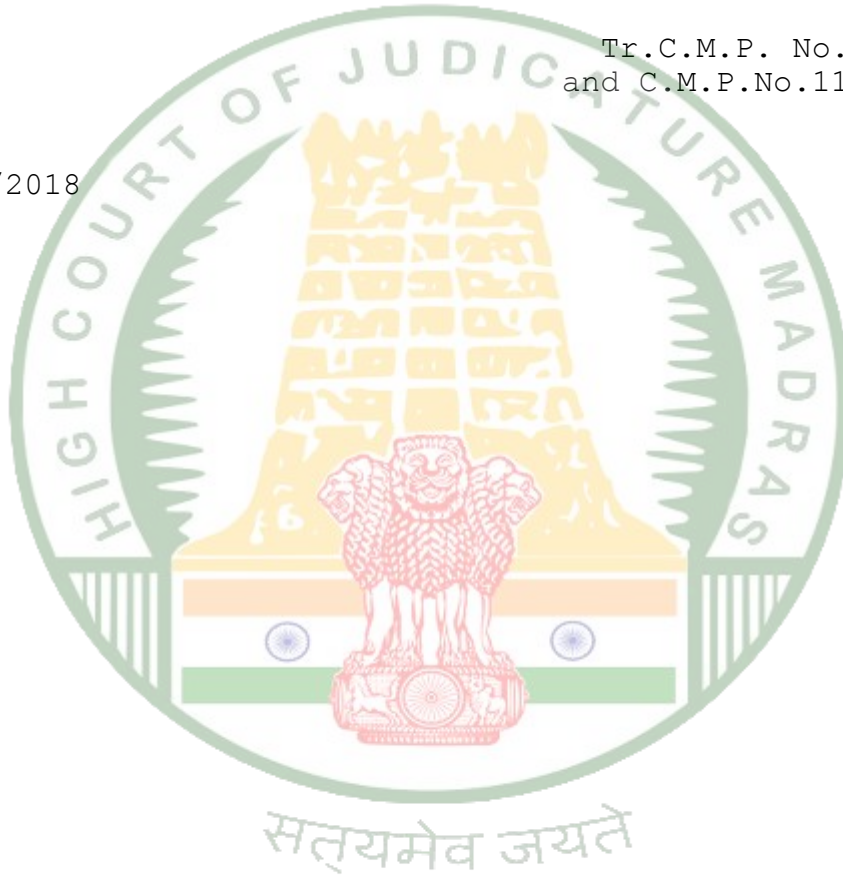
2.The Judge, Family Court,
Villupuram.

+lcc to Mr.T.K.Saravanan, Advocate Sr.49016

+lcc to Mr.B.Devakumar, Advocate Sr.49168

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srg 04/09/2018



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