

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.50 of 2018

and C.M.P.No.1317 of 2018

S.Baby ... Petitioner/2nd Respondent

Vs.

K.Prabakaran ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.422 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Subordinate Court, Tambaram.

For Petitioner : Mr.R.Sivakumar

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.422 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the file of the Subordinate Court, Tambaram.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 17.02.2016 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Coimbatore. Due to the cruelty and harassment caused by the respondent and his family members, the petitioner left the matrimonial home. The respondent filed H.M.O.P.No.422 of 2017 on the file of the Additional Family Court, Coimbatore, for divorce making false allegations against the petitioner.

3.According to the petitioner, she is residing at Thoraipakkam, Chennai, along with her aged parents. The distance between Chennai and Coimbatore is nearly 500 kilometers. The

petitioner has no one to accompany her to travel such a long distance to attend the Court proceedings before the Additional Family Court, Coimbatore, wherein presence of spouse is mandatory for each and every hearing. Further, the respondent threatened the petitioner, when she attended the Court at Coimbatore. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.422 of 2017 from the file of the Additional Family Court, Coimbatore, to the file of the Subordinate Court, Tambaram.

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.It is well settled law that whenever the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by 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]. Further as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6.Having regard to the submissions made by the learned counsel for the petitioner and the decisions of the Hon'ble Apex Court referred to above and residence of the petitioner in Chennai, the petition in H.M.O.P.No.422 of 2017 is ordered to be withdrawn from the file of the Additional Family Court, Coimbatore and transferred to the file of the Subordinate Court, Tambaram. The learned Additional Judge, Family Court, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.422 of 2017 to the file of the Subordinate Court, Tambaram, within a period of two weeks from the date of receipt of a copy of this order.

7.Accordingly, this Transfer Civil Miscellaneous Petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

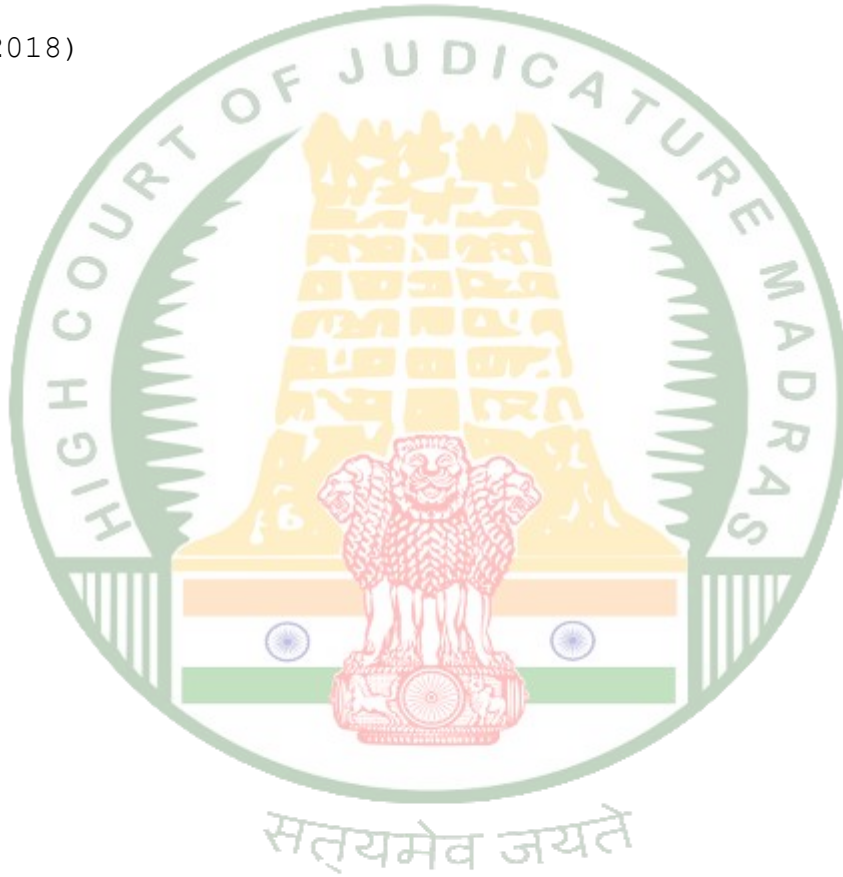
1.The Subordinate Judge, Tambaram.

2.The Additional Judge Family Judge, Coimbatore.

+1cc to Mr.R.SIVAKUMAR, Advocate, S.R.No. 26123

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