

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.99 of 2018

and C.M.P.No.2783 of 2018

V.Ishwarya @ Jayalakshmi

... Petitioner

Vs.

V.Vinod Kumar @ Ramakrishna Sharma

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.473 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Principal Subordinate Court, Kumbakonam.

For Petitioner : Mr.K.Sudhakar

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the H.M.O.P.No.473 of 2017 pending on the file of the Subordinate Court, Tambaram and transfer the same to the file of the Principal Subordinate Court, Kumbakonam.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 23.01.2013 at Shree Raghumayi Samedha Shree Pandurangan Temple at Dhakshina Pandaripuram as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Krishna Nagar, Pamal, Chennai. Due to difference of opinion, the petitioner left the matrimonial home and is staying along with her parents at Kumbakonam. While so, the respondent filed H.M.O.P.No.473 of 2017 on the file of the Subordinate Court, Tambaram for restitution of conjugal rights. The petitioner filed H.M.O.P.No.157 of 2017 on the file of the Principal Subordinate Court, Kumbakonam for divorce and exparte order was passed on 10.11.2017 against the respondent.

3. According to the petitioner, she is permanent resident of Kumbakonam. The distance between Kumbakonam and Chennai is more than 300 kms and being a lady, it is very difficult for her to travel such a long distance to attend each and every hearing. The respondent is having money and muscle power. He will threaten the petitioner if she attends the Court proceedings before the Subordinate Court, Tambaram. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.473 of 2017 pending on the file of the Subordinate Court, Tambaram to the file of the Principal Subordinate Court, Kumbakonam.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, there is no representation for him.

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, the place of the residence of the 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, the residence of the petitioner is at Kumbakonam, the petition in H.M.O.P.No.473 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Tambaram and transferred to the file of the Principal Subordinate Court, Kumbakonam to be tried along with H.M.O.P.No.157 of 2017 in the interest of justice, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Tambaram, is directed to transmit all the records pertaining to H.M.O.P.No.473 of 2017 to the file of the Principal Subordinate Court, Kumbakonam, 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-IV)

//True Copy//

Sub Assistant Registrar

gsa

To

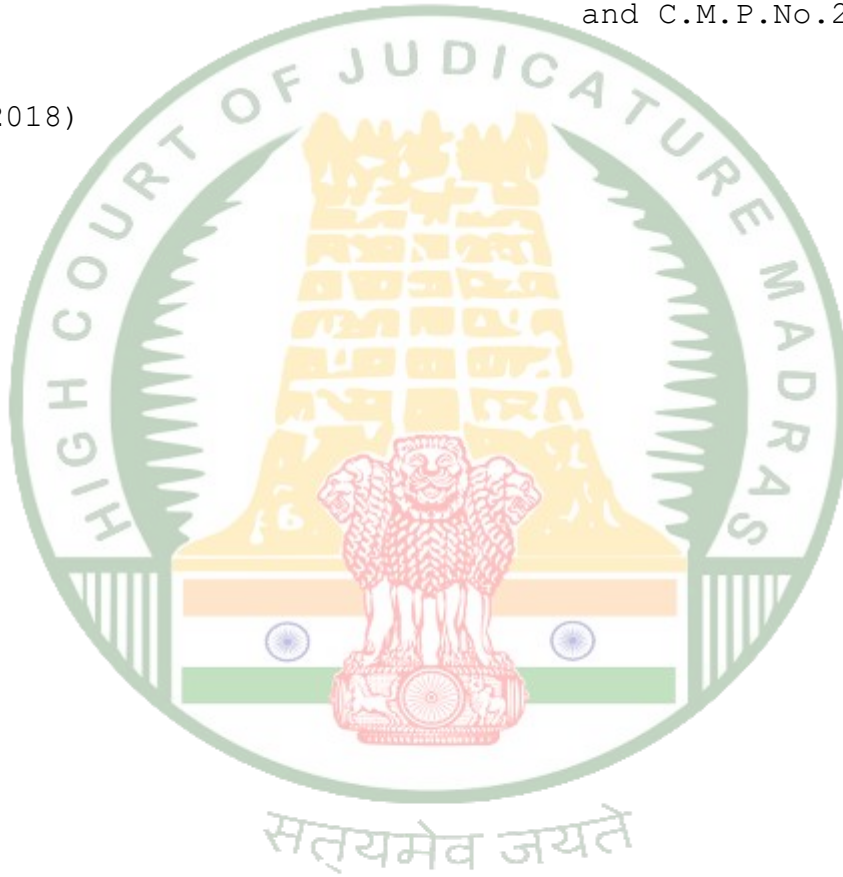
1.The Principal Subordinate Judge,
Kumbakonam.

2.The Subordinate Judge,
Tambaram.

+1cc to Mr.K.SUDHAKAR, Advocate, S.R.No. 27896

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KJI (CO)
TR(27/04/2018)



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