

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P.NO.650 OF 2019

AND

C.M.P.NO.18752 OF 2019

J.Sadhana

... Petitioner

Vs.

J.Karthikeyan

... Respondent

PRAYER:

Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw H.M.O.P.No.83 of 2019 on the file of Principal Sub Court, Thiruvannamalai and to transfer the same to the Sub Court, Neyveli.

For Petitioner : Mr.V.Rajesh Babu

For Respondent : Notice Served - No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw and transfer H.M.O.P.No.83 of 2019 on the file of the Principal Sub Court, Thiruvannamalai to Sub Court, Neyveli.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 01.02.2017. The respondent/husband and his parents were unkind and demanded dowry from the petitioner. At the time of pregnancy the respondent/husband demanded a new house and started torturing the petitioner. The petitioner gave birth to a male child on 24.10.2017. Since the petitioner did not satisfy them with the demanded dowry she was driven out of the matrimonial home by the respondent and hence she filed a petition under Section 9(b) of the Domestic Violence Act seeking protection and maintenance in DVC.No.3 of 2019. The respondent in order to wreck vengeance filed a petition seeking divorce under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 in H.M.O.P.No.83 of 2019 on the file of the Principal Sub Court, Thiruvannamalai. The petitioner is living with her parents in

Neyveli along with the minor child and finds difficult in travelling from Neyveli to Thiruvannamali for each and every hearing. Hence sought for transfer.

2. This Court ordered notice to the respondent through Court as well as privately and the same was served on him. In spite of giving sufficient opportunities, the sole respondent has not entered into appearance before this Court either in person or through his counsel. Therefore, this court is inclined to pass orders on merits in accordance with law.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. A perusal of the documents would indicate that the petitioner is living at her parents' home and the respondent has not taken care of his wife and child. In these circumstances, she cannot force her parents to incur additional expenditure to attend the proceedings at the Principal Sub Court, Thiruvannamalai. Taking into consideration the 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]. The consolidation of proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. Hence, this Court is of the opinion that it is appropriate to withdraw and transfer H.M.O.P.No.83 of 2019 from the Principal Sub Court, Thiruvannamalai to the Sub Court, Neyveli, and the entire case papers are to be transmitted within four weeks from the date of receipt of a copy of this order.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dpq

To

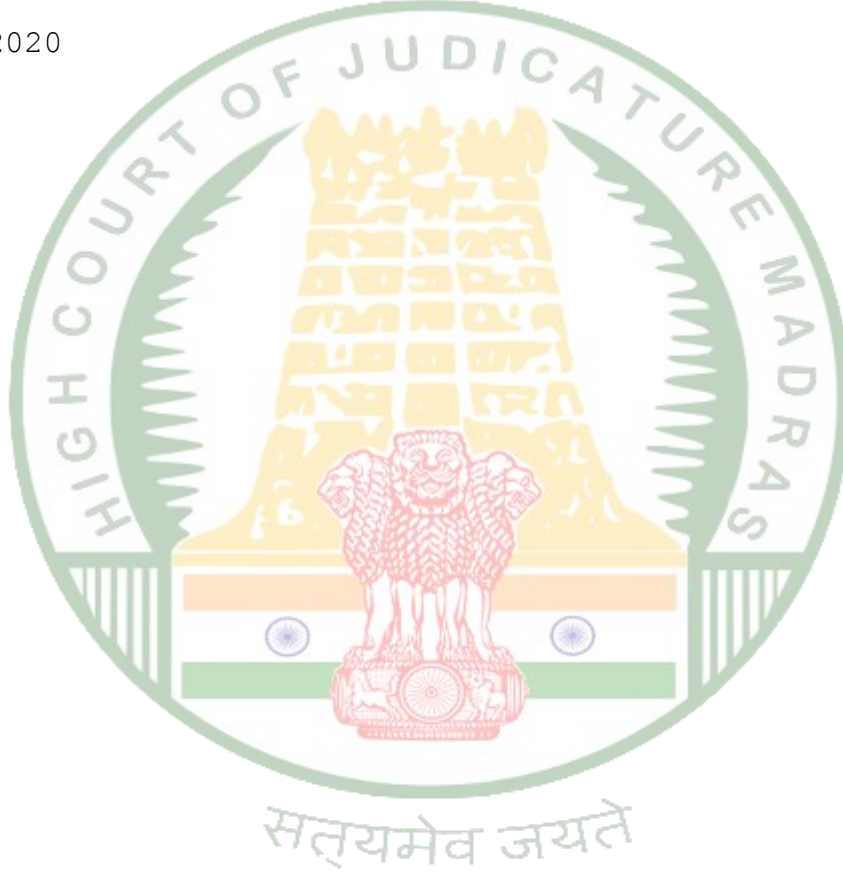
1. The Principal Sub Court,
Thiruvannamalai.

2. The Sub Court, Neyveli.

+2ccs to Mr.V.Rajesh Babu, Advocate, S.R.No.98391

TR C.M.P.NO.650 OF 2019
AND
C.M.P.NO.18752 OF 2019

CB (CO)
CS/24/01/2020



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