

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.957 of 2018
and C.M.P.Nos.23549 & 23625 of 2018

P.Uma Maheswari @ Priya .. Petitioner/Petitioner

versus

K.Mageswaran .. Respondent/Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.27 of 2018 pending on the file of the Sub Court, Ponneri and transfer the same to the file of Family Court, Chennai.

For Petitioner : M/s.V.Uma Shankari

ORDER

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw the case i.e. H.M.O.P.No.27 of 2018 pending on the file of the Sub Court, Ponneri and transfer the same to the file of the Family Court, Chennai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 22.05.2015 at New Sri Seetharama Kalyana Mandapam, Tirumala, as per Hindu rites and customs. Subsequently, on 28.05.2015, the marriage was registered in the Office of Sub-Registrar, Ambathur, Chennai. After the marriage, both the petitioner and respondent were lived together in the matrimonial home for a considerable period. After some time, from the date of marriage, due to difference of opinion arose between the petitioner and respondent, resultantly, the petitioner left the matrimonial home and residing along with her parents at Chennai. After leaving from the house of the respondent, the petitioner

has filed a petition before the Sub Court, Ponneri, for the relief of annulling the marriage happened between them on 22.05.2015. The said petition is now pending before the Sub Court, Ponneri as H.M.O.P.No.27 of 2018. As of now, the said case has been posted for trial. In the said circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition for the relief as stated above.

3. Today, when this matter is taken up for admission, the learned counsel appearing for the petitioner would contend that, the petitioner is living with her mother at Thiruvotriyur, Chennai and for attending the hearing in the Sub Court, Ponneri, she has to go to Ponneri along with her mother, further, she has to travel in a train for reaching Ponneri. It is further added that due to signal failure, she was unable to go to Ponneri, at a time when the case was called for enquiry. Because of the said reason, she approached this Court by way of filing this petition.

4. No doubt, as per the judgments of our Hon'ble Supreme Court in *Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta* reported in 2008 (9) SCC 353 and in *Sumita Singh Vs. Kumar Sanjay and another* reported in AIR 2002 SC 396, the convenience of the wife must be looked into for conducting the trial in the Family Court. In this case, the petitioner herself admitted in her petition that she is residing at Thiruvotriyur, Chennai, further, the distance between the Sub Court, Ponneri and the Family Court, Chennai is nearly 25 kms, so, transferring the case from the Sub Court, Ponneri to the file of Family Court, Chennai, is unnecessary. As per the petition filed by the petitioner, the respondent is residing in Thirumullaivoyal, which is also near to Thiruvotriyur and Ponneri. So, this Court feels that this petition has been filed by the petitioner only with an ulterior motive, and the reason projected by the petitioner is not having sufficient ground for transferring the H.M.O.P.No.27 of 2018 from the file of the Sub Court, Ponneri to the file of the Family Court, Chennai. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Subordinate Judge, Ponneri.

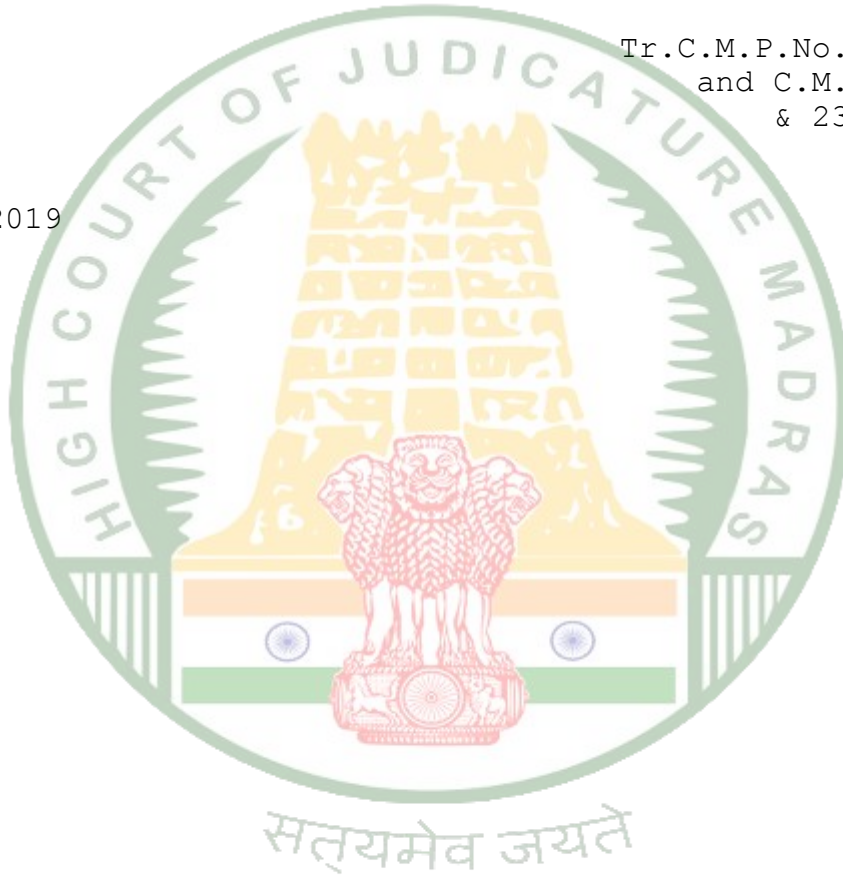
2.The Judge, Family Court, Chennai.

3.The Section Officer,
VR Section, High Court, Madras(2 copies)

+lcc to MS.B.Kalarani, Advocate sr.no.682

Tr.C.M.P.No.957 of 2018
and C.M.P.Nos.23549
& 23625 of 2018

kk(co)
nr 25/01/2019



WEB COPY