

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2015

CORAM

THE HONOURABLE MR. JUSTICE D. HARIPARANTHAMAN

Tr.C.M.P.No.306 of 2014 and M.P.No.1 of 2014
and
Tr.C.M.P. (MD) .No.148 of 2014 and M.P.No.1 of 2014

NRR.Khannan .. Petitioner in Tr.CMP.306 of 2014 &
Respondent in Tr.CMP.(MD).148 of 2014
Versus

S.Vanitha .. Respondent in Tr.CMP.306 of 2014 &
Petitioner in Tr.CMP.(MD).148 of 2014

Tr.CMP.No.306 of 2014 is filed by the husband praying to withdraw HMOP.No.250 of 2014 on the file of the Sub Court, Tiruchirapalli and transfer the same before Subordinate Judge, Tambaram and have joint trial along with HMOP.No.422 of 2013.

Tr.CMP.(MD).No.148 of 2014 is filed by the wife praying to withdraw HMOP.No.422 of 2013 on the file of Sub Court, Tambaram and transfer the same to the file of Subordinate Judge's Court (Camp Court), Thuraiyur, so as to be tried along with HMOP.No.250 of 2014.

For Petitioner in Tr.CMP.306 of 2014 &
Respondent in Tr.CMP.(MD).148 of 2014 : Mr.Murugesan
for
M/s.R.Murali

For Respondent in Tr.CMP.306 of 2014 &
Petitioner in Tr.CMP.(MD).148 of 2014 : Mr.R.Subramanian
for
M/s.R.Meenal

COMMON ORDER

Tr.C.M.P. (MD) .No.148 of 2014 is filed by the wife to transfer HMOP.No.422 of 2013 on the file of the Sub Court, Tambaram, to Sub Court Camp at Thuraiyur, as the petitioner/wife is at Thuraiyur.

2. The Tr.C.M.P.No.306 of 2014 is filed by the husband seeking to transfer HMOP.No.250 of 2014 pending on the file of the Sub Court, Tiruchirapalli to Sub Court, Tambaram, to be tried along with HMOP.No.422 of 2013 filed by the husband.

3. Heard the learned counsel appearing on both sides.

4. The learned counsel for the wife states that he will be satisfied if HMOP.No.422 of 2013 on the file of the Sub Court, Tambarm is transferred to Sub Court, Tiruchirapalli, wherein HMOP.No.250 of 2014 is pending.

5. The learned counsel for the husband submits that in view of Section 21(a) of the Hindu Marriage Act, the application filed later has to be transferred to try along with the application that was filed at the earlier point of time. I am not in agreement with the submission made by the learned counsel for the husband for more than one reasons.

(i) It is well settled that in the matter of matrimonial disputes, the convenience of the wife shall be given preference in the place of hearing. It is also useful to take note of Section 19 (iii-a) of Hindu Marriage Act, which provides for hearing at the place, where the wife resides. It is to be taken note that, such a clause is an exception to the Code of Civil Procedure.

(ii) Section 21(a) of the Hindu Marriage Act was incorporated in 1976, but Section 19(iii-a) of the Hindu Marriage Act was inserted in 2003.

(iii) Furthermore, the Constitutional scheme of our Nation and more particularly Article 15(3) (Part-III) read with Article 39 (Part-IV) of the Constitution protects women and children.

6. Women and children are entitled to seek remedy by relying on Article 15(3) of the Constitution of India besides Section 19(iii-a) of Hindu Marriage Act. Hence, I am inclined to transfer HMOP.No.422 of 2013 on the file of the Sub Court, Tambarm, to Sub Court, Tiruchirapalli, to try HMOP.No.422 of 2013 along with HMOP.No.250 of 2014.

7. The Transfer Civil Miscellaneous Petitions are ordered accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

mra

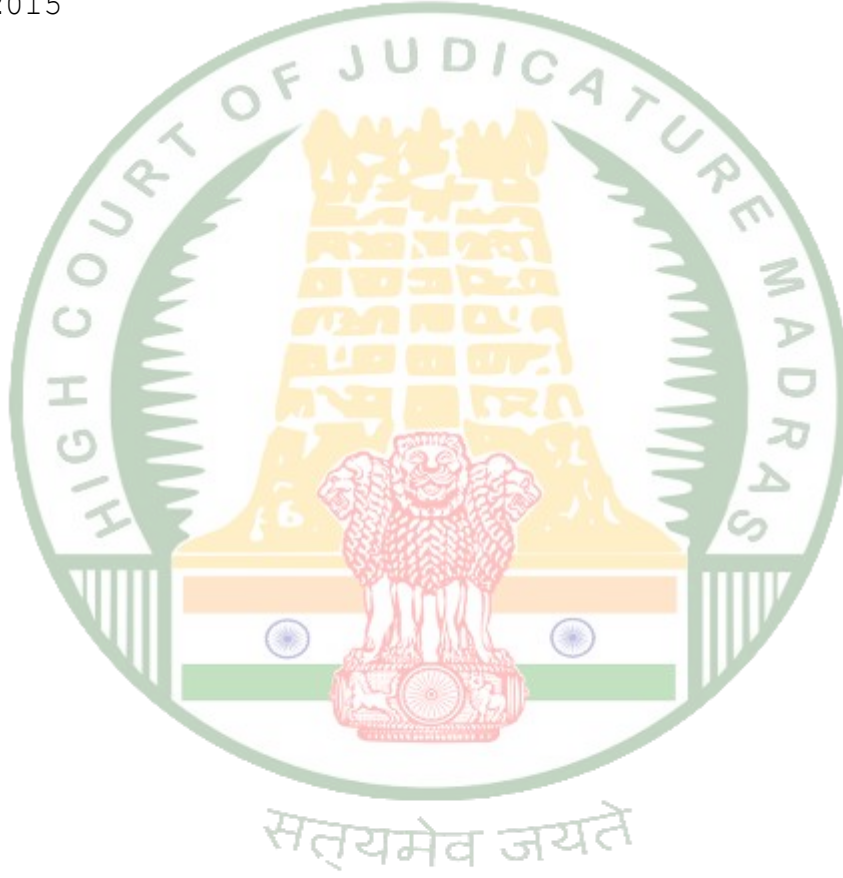
To

1. The Subordinate Judge, Tambarm.
2. The Subordinate Judge, Tiruchirapalli.

Tr.C.M.P.No.306 of 2014
and M.P.No.1 of 2014
&

Tr.C.M.P. (MD) .No.148 of 2014
and M.P.No.1 of 2014

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