

In the High Court of Judicature at Madras

Dated : 20.1.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

Tr.CMP.No.595 of 2014 and MP.No.1 of 2014

Mrs.D.Banumathi (a) Kamsala

...Petitioner

Vs

1.Arul Prabhakar

2.K.Balaji

...Respondents

PETITION under Section 24 of the Civil Procedure Code to withdraw M.C.No.12 of 2011 pending on the file of the Family Court, Puducherry and transfer to the Family Court at Chennai.

Petitioner : Appearing in Person

For Respondents : Mr.K.S.Karthik Raja

ORDER

The petitioner, who is the mother of the respondents herein, has come up with the above petition seeking transfer of M.C.No.12 of 2011 pending on the file of the Family Court, Puducherry to the file of the Family Court at Chennai.

2. Heard Mrs.D.Bhanumathi (a) Kamsala - the petitioner appearing in person and Mr.K.S.Karthik Raja, learned counsel for the respondents.

3. The petitioner is admittedly the mother of the respondents. Her husband is now no more. It appears that there are several proceedings pending, one of which is the case in M.C.No.12 of 2011 pending on the file of the Family Court at Puducherry.

4. According to the petitioner, she is unable to travel to Puducherry to conduct the case. Her claim is that she was just a house wife and over a period of time, she educated herself to be an advocate and started contesting her own cases. The reason as to why the petitioner is unable to go to Puducherry is stated in paragraphs 6 and 7 of the affidavit in support of the transfer petition, which read as follows :

"6. I further submit that my husband was died on 10.4.2011. After the death of my husband,

my son K.Arul Prabakar assaulted me on 26.5.2011 with one iron rod into my both knees and right knee was broken and after I escaped after 3 months from my son's custody. After I went to Miot Hospital, the knee operation was done on 14.10.2011 successfully. I spent money for Rs.1,50,000/- borrowed loan from others. Due to these reasons, I am not able to attend every hearing at Puducherry. I could not able to spend money itself. For past 19 years, I am living out of the house with some friends and relatives help. Nowadays, my health condition is also not cooperative with me. I had knee pain and arthritis patient, chest pain and breathing trouble also, I had no money to maintain me and take treatment also. My age is also going forward my sons are expecting my duly health.

7. I submit that I need a person to accompany with me to attend the each and every hearing of my case at Puducherry. Further, I submit that if the Tr.CMP. is transferred to Family Court, Chennai, which is accessible to me and I would be able to participate in the proceedings of the M.C.No.12/2011 will be came into final position duly."

5. The learned counsel for the respondents objects to the prayer on the ground that the allegations contained in the affidavit are false. According to the learned counsel for the respondents, the trial is already over and the matter posted for arguments. Therefore, the learned counsel strongly opposes the prayer for transfer at this stage.

6. However, in the light of the fact that the petitioner is now aged 66 years, I am of the view that the transfer could be ordered, even though it may be prejudicial to the interests of the petitioner herself. Transferring a case filed by the petitioner herself and that too at this stage may only prolong her agony. But, she is prepared to take it.

7. Therefore, this transfer petition is allowed withdrawing M.C.No.12 of 2011 from the file of the Family Court, Puducherry and transferring it to the Principal Family Court at Chennai. The Family Court, Puducherry shall transfer the records within a period of two weeks from the date of receipt of a copy of this order. Within two weeks of receipt of the records, the Principal Family Court, Chennai shall allot it to one of the Additional Courts or allot it before itself and endeavour to dispose it of within a period of three

months. No costs. Consequently, the above MP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Family Court, Puducherry.

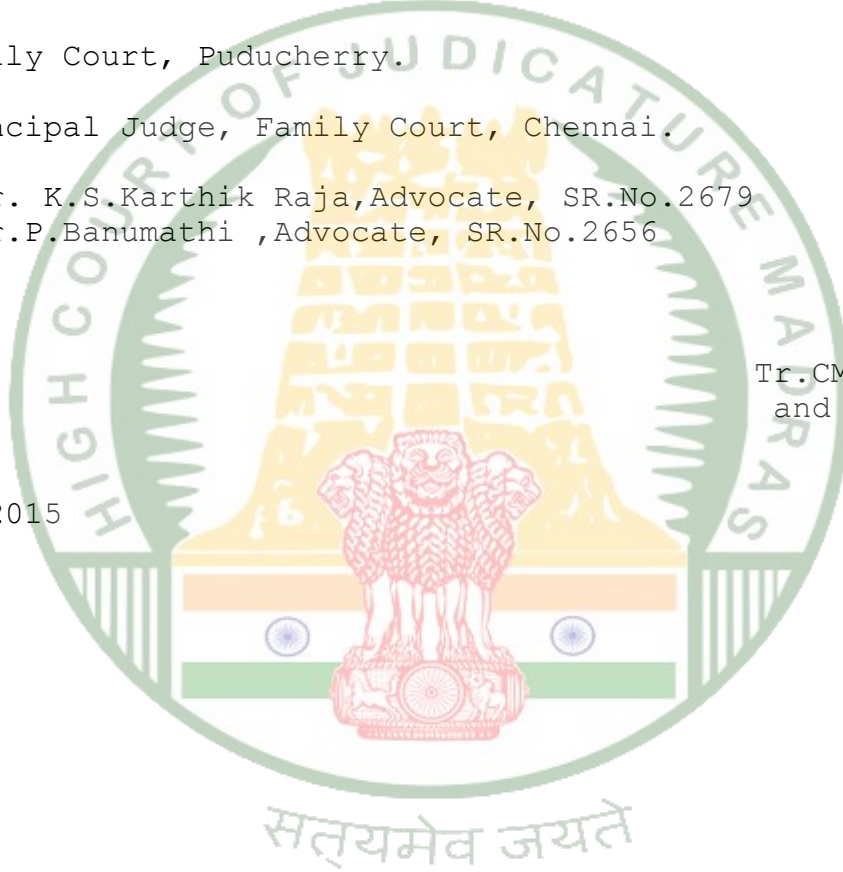
2.The Principal Judge, Family Court, Chennai.

1 cc to Mr. K.S.Karthik Raja,Advocate, SR.No.2679

1 cc to Mr.P.Banumathi ,Advocate, SR.No.2656

Tr.CMP.No.595 of 2014
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