

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Tr.C.M.P. No.184 of 2015
and M.P.No.1 of 2015

Suganthi

... Petitioner

Vs.

Krishnaraj

.... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., praying, to withdraw the proceedings in I.A.No.1 of 2015 in un-numbered H.M.O.P. Of 2015 on the file of the Principal Subordinate Court, Cuddalore and transfer the same to the file of the Principal Subordinate Court, Tindivanam to hear and dispose off along with H.M.O.P.No.13 of 2015.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.P.Mani

O R D E R

The petitioner/wife, who is the respondent in I.A.No.1 of 2015 in an un-numbered H.M.O.P. Of 2015 has filed this petition to transfer the same from the file of the Principal Subordinate Court, Cuddalore to the file of the Principal Subordinate Court, Tindivanam.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3.Learned counsel for the petitioner/wife submitted that the marriage between the petitioner and the respondent was performed on 09.02.2014 and because of the difference of opinion, the respondent/husband filed an application in I.A.No.1 of 2015 to take up the H.M.O.P. filed for divorce within one year of marriage and number the same. The petitioner/wife filed a petition for restitution of conjugal rights in H.M.O.P.No.13 of 2015 on the file of the Principal Subordinate Court, Tindivanam. He further submitted that since the petitioner/wife gave birth to a male child only on 07.01.2015, it is difficult for her to attend the Court at Tindivanam on each and every hearing. Hence, he prayed to transfer the case in I.A.No.1 of 2015 in an un-numbered

H.M.O.P. of 2015 from the file of the Principal Subordinate Court, Cuddalore and transfer the same to the Principal Subordinate Court, Tindivanam to be tried along with H.M.O.P.No.13 of 2015.

4.Resisting the same, the learned counsel for the respondent/husband filed detailed counter and submitted that the marriage has been performed on 09.02.2014 at Cuddalore. He further submitted that the presence of the petitioner is not necessary. Hence, he prayed for dismissal of the petition. However, during the argument, the learned counsel for the respondent submitted that instead of transferring the case to Tindivanam, the same may be transferred either to Panruti or Villupuram.

5.Considered the rival submissions made by both sides and perused the typed set of papers.

6.The marriage between the petitioner and the respondent has been performed on 09.02.2014. The application in I.A.No.1 of 2015 in an un-numbered H.M.O.P. Of 2015 seeking leave for filing the petition for divorce has been filed in January 2015, which is pending before the Principal Subordinate Court, Cuddalore. The only point for transfer is that the petitioner/wife is having child below the age of one year and hence she finds it very difficult to attend the Court. Therefore, applying the guidelines laid down in 2000 (2) T.L.N.J.158 (Sudha v. Vaidyanathan), it is fit case to transfer I.A.No.1 of 2015 in an un-numbered H.M.O.P. Of 2015 from the file of the Principal Subordinate Court, Cuddalore to the file of the Principal Subordinate Court, Tindivanam. Accordingly, the Presiding Officer, Principal Subordinate Court, Cuddalore, is directed to transmit all the records pertaining to I.A.No.1 of 2015 in an un-numbered H.M.O.P. Of 2015 to the file of the Principal Subordinate Court, Tindivanam, within a period of fifteen days from the date of receipt of a copy of this order for joint trial along with H.M.O.P.No.13 of 2015 pending on its file. Hence, the request made by the respondent that the case may be transferred either to Panruti or Villupuram is negatived since the child is below the age of five years.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
ASSISTANT REGISTRAR (CS-III)

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SUB-ASSISTANT REGISTRAR

To

1.The Principal Subordinate Judge, Cuddalore.

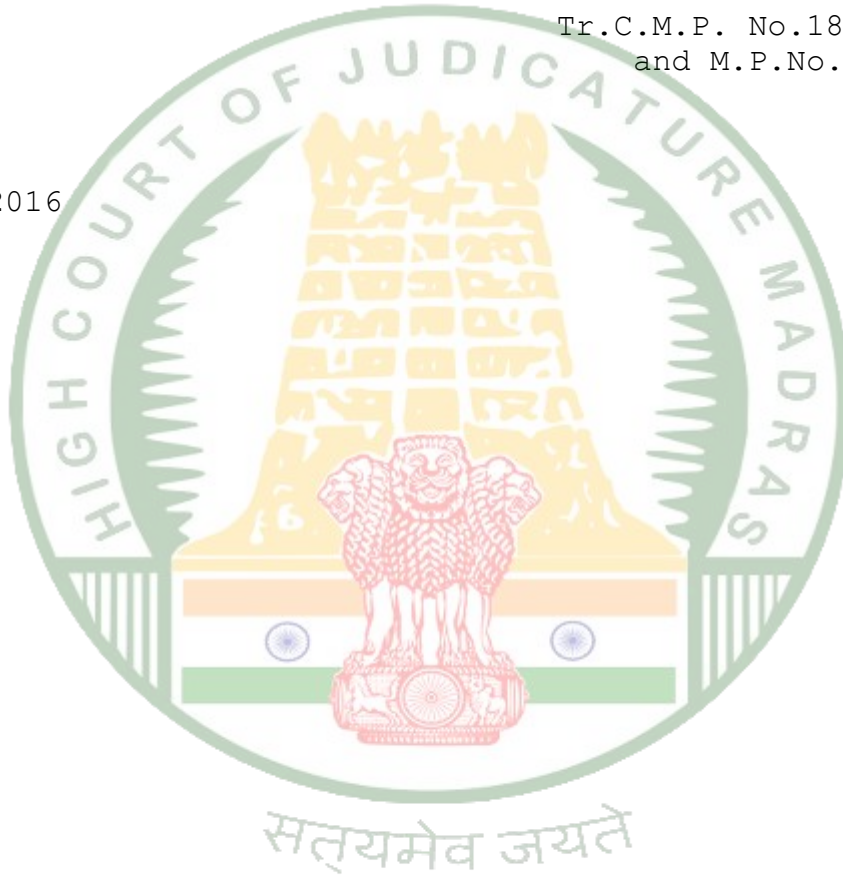
2.The Principal Subordinate Judge, Tindivanam.

+1 CC to MR.V.Raghavachari Advocate. SR.NO. 66834

+1 CC to MR.P.Mani Advocate. SR.NO. 66583

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CO-SLD
JD 05/01/2016



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