

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2015

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Tr.C.M.P. No.409 of 2015

and M.P.No.1 of 2015

L.Damin Doori @ Abhi ... Petitioner/Respondent

Vs.

S.Antony Luther Singh ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., praying, to withdraw the proceedings in I.D.O.P.No.1591 of 2015 pending on the file of the Principal Family Court at Chennai and to transfer the same to the file of the Principal District Court at Coimbatore.

For Petitioner : Mr.V.S.Usharani
For Respondent : Mr.R.Veeramani

O R D E R

The petitioner/wife, who is the respondent in I.D.O.P.No.1591 of 2015, has filed this petition to transfer I.D.O.P.No.1591 of 2015 pending on the file of the Principal Family Court, Chennai, to the file of the Principal District Court, Coimbatore where she filed the petition for restitution of conjugal rights in I.D.O.P.No.347 of 2014.

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 respondent/husband filed a petition for divorce on the ground of cruelty in I.D.O.P.No.1591 of 2015 on the file of the Principal Family Court, Chennai and the petitioner/wife filed a petition for restitution of conjugal rights in I.D.O.P.No.347 of 2014 on the file of the Principal District Court, Coimbatore. He further submitted that since the petitioner/wife is residing

within the jurisdiction of Coimbatore along with her child aged about three years, it is very difficult for her to attend the Court at Chennai for each and every hearing. Hence, he pray to transfer the case in I.D.O.P.No.1591 of 2015 from the file of the Principal Family Court, Chennai and transfer the same to the Principal District Court, Coimbatore to be tried along with I.D.O.P.No.347 of 2014.

4.Resisting the same, the learned counsel for the respondent/husband submitted that the respondent/husband is the only son for the family and he had to maintain his aged parents. He further submitted that the respondent/husband is working at Chennai and hence it is very difficult to attend the Court at Coimbatore. Hence, he pray for dismissal of the petition. He would also submitted that if the Court feels that the case should be transferred to Coimbatore, his personal appearance may be dispensed with.

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

6.The petitioner/wife filed I.D.O.P.No.347 of 2014 on the file of the Principal District Court, Coimbatore for restitution of conjugal rights and after that only, the respondent/husband filed I.D.O.P.No.1591 of 2015 for divorce before the Principal Family Court, Chennai. Considering the fact that both the cases are pending before two different Courts, in order to avoid multiplicity of proceedings and conflicting of judgments, both the cases are to be tried by the Single Court jointly.

7.Now, this Court has to decide in which Court both the cases are to be tried. According to the petitioner/wife, she is residing within the jurisdiction of Coimbatore along with her child aged about three years. Therefore, applying the guidelines laid down in 2000 (2) T.L.N.J.158 (Sudha v. Vaidyanathan), it is fit case to transfer I.D.O.P.No.1591 of 2015 from the file of the Principal Family Court, Chennai to the file of the Principal District Court, Coimbatore. Further, it is well known fact that for adjudication before the Family Court, the presence of the spouses is mandatory and if the proceedings is before other Courts, the learned counsel can appear on behalf of the spouses and their presence is necessary during the examination as witness. Accordingly, the Presiding Officer, Principal Family Court, Chennai, is directed to transmit all the records pertaining to I.D.O.P.No.1591 of 2015 to the Principal District Court, Coimbatore, within a period of fifteen days from the date of receipt of a copy of this order for joint trial along with I.D.O.P.No.347 of 2014 pending on its file. Further, the Presiding Officer, Principal District Court, Coimbatore is directed to dispose of both the case, viz., I.D.O.P.No.1591 of 2015 and I.D.O.P.No.347 of 2014 within six

months from the date of receipt of material papers.

8.With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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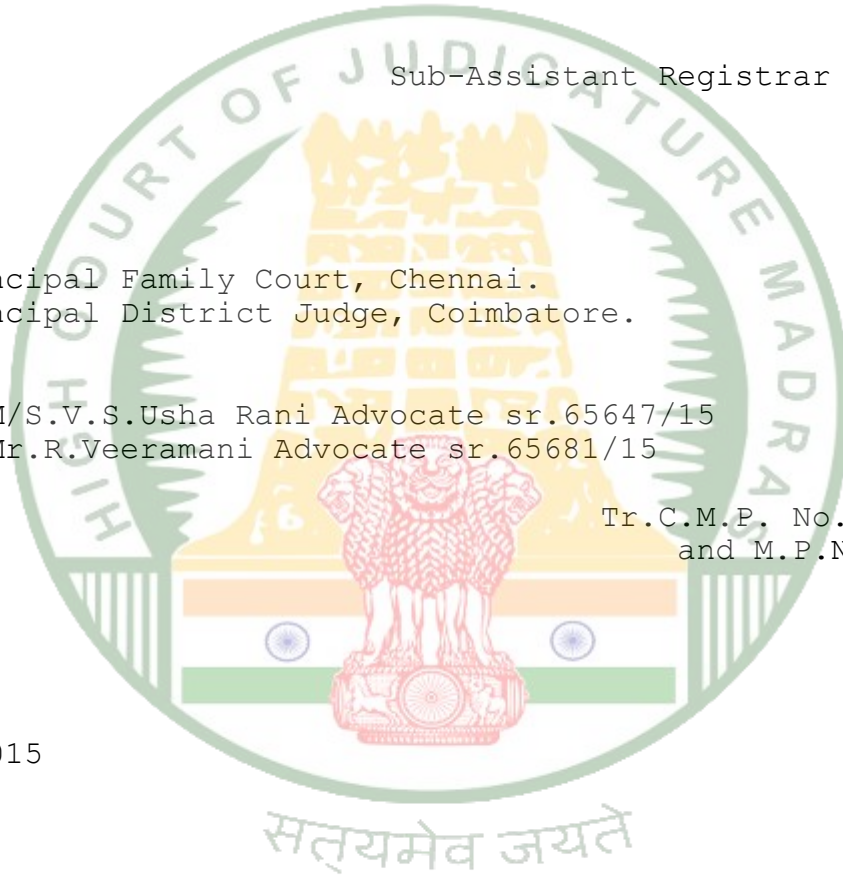
- 1.The Principal Family Court, Chennai.
- 2.The Principal District Judge, Coimbatore.

+1 cc to M/S.V.S.Usha Rani Advocate sr.65647/15

+1 cc to Mr.R.Veeramani Advocate sr.65681/15

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