

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Tr.C.M.P. No.425 of 2015
and M.P.No.1 of 2015

B.Kousalya

... Petitioner

Vs.

1.D.Dhanagopal
2.Kiruthika

... Respondents

Prayer:- Petition has been filed under Section 24 of C.P.C., praying, to withdraw the case in H.M.O.P.No.197 of 2014 pending before the Subordinate Court, Pollachi and transfer the same to the Subordinate Court, Palani and trial along with H.M.O.P.No.46 of 2015.

For Petitioner : Mrs.Geeta Ramaseshan
For Respondent : Mr.C.Veeraraghavan (For R1)

O R D E R

The petitioner/wife, who is the respondent in H.M.O.P.No.197 of 2014 has filed this petition to transfer the same from the file of the Subordinate Court, Pollachi to the file of the Subordinate Court, Palani for joint trial along with H.M.O.P.No.46 of 2015.

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 in H.M.O.P.No.197 of 2014 on the file of the Subordinate Court, Pollachi and the petitioner/wife has filed a petition for restitution of conjugal rights in H.M.O.P.No.46 of 2015 on the file of the Subordinate Court, Palani. He further submitted that since the petitioner/wife is having a female child aged about four years, it is difficult for her to attend the Court at Pollachi on each and every hearing. He would also submit that the marriage between the petitioner and the respondent has been performed at Tirupathi, registered at Chennai, the respondent is residing at Bangalore and they lastly reside at Chennai and so, there is no cause of action arose within the jurisdiction of Subordinate Court, Pollachi. Hence, he pray to transfer the

case in H.M.O.P.No.197 of 2014 from the file of the Subordinate Court, Pollachi and transfer the same to the Subordinate Court, Palani to be tried along with H.M.O.P.No.46 of 2015.

4.Resisting the same, the learned counsel for the respondent/husband submitted that the respondent's native place is Pollachi and hence, he filed the petition on the file of the Subordinate Court, Pollachi. However, he prayed for dismissal of the petition.

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

6.The respondent/husband filed a petition for divorce in H.M.O.P.No.197 of 2014 before the Subordinate Court, Pollachi and the petitioner/wife filed a petition for restitution of conjugal rights in H.M.O.P.No.46 of 2015 before the Subordinate Court, Palani. Hence, to avoid multiplicity of proceedings and conflicting of judgments, both the cases are to be tried by the same Court. Furthermore, the petitioner/wife is residing within the jurisdiction of Palani along with her four years old female child. Therefore, applying the guidelines laid down in 2000 (2) T.L.N.J.158 (Sudha v. Vaidyanathan), it is fit case to transfer H.M.O.P.No.197 of 2014 from the file of the Subordinate Court, Pollachi to the file of the Principal Subordinate Court, Palani. Accordingly, the petition in H.M.O.P.No.197 of 2014 has been withdrawn from the file of the Subordinate Court, Pollachi and ordered to transfer to the file of the Subordinate Court, Palani for joint trial along with H.M.O.P.No.46 of 2015. The Presiding Officer, Subordinate Court, Pollachi, is directed to transmit all the records pertaining to H.M.O.P.No.197 of 2014 to the file of the Subordinate Court, Palani, within a period of fifteen days from the date of receipt of a copy of this order. The Presiding Officer, Subordinate Court, Palani is directed to dispose of both the cases viz., H.M.O.P.No.197 of 2014 and H.M.O.P.No.46 of 2015 jointly within six months from the date of receipt of the material papers.

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

cse

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1.The Subordinate Court, Pollachi.

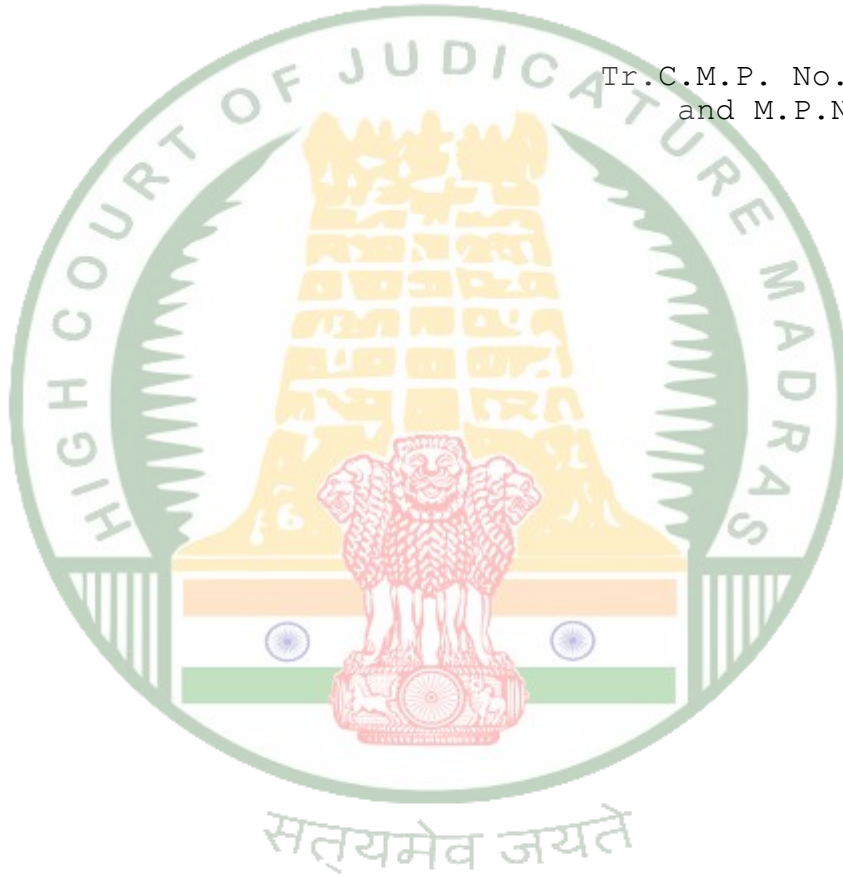
2.The Subordinate Court, Palani.

+ 1 cc to Mrs.Geetha Ramaseshan, Advocate SR 66570

+ 1 cc to Mr.C.Veeraraghavan, Advocate SR 66577

gj (co)
prk5/1

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