

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

CORAM

THE HONOURABLE THIRU JUSTICE D.HARIPARANTHAMAN

Tr.C.M.P.No.558 of 2015 &
M.P.No.1 of 2015

Fathima alias Manju

... Petitioner/Respondent

v.

J.Levin Peeriz

... Respondent/Petitioner

Tr.C.M.P. filed under section 24 of C.P.C., to withdraw H.M.O.P.No.2436 of 2013 on the file of the III Additional Family Court, Chennai and transfer the same to the Hon'ble District Court at Tiruchendur.

For Petitioner : Ms.Gajalakshmi Rajendran
For Respondent : Mr.R.Sreedharan

O R D E R

The petitioner is the wife of the respondent. The respondent filed HMOP No.2436 of 2013 on the file of III Additional Family Court, Chennai for restitution of conjugal rights.

2. The petitioner has filed the above Transfer C.M.P. to withdraw H.M.O.P.No.2436 of 2013 from the file of III Additional Family Court, Chennai and to transfer the same to the file of District Court, Tiruchendur.

3. The learned counsel for the petitioner submits that the petitioner is staying with her parents along with her child, aged 2 1/2 years at Tiruchendur and it is difficult for her to attend the hearings at Chennai and hence prays for transfer.

4. On the other hand, the learned counsel for the respondent strongly opposed this petition stating that already the petitioner was set ex parte in the OP proceedings and there was a delay in filing the application to set aside the ex parte order. It is stated that I.A.No.886 of 2015 is pending.

5. In view of settled position of law, H.M.O.P. may be tried at the place where the wife resides, the pendency of I.A.No.886 of 2015 cannot be a bar to transfer the said case.

6. In these circumstances, I direct for withdrawal of H.M.O.P.No.2436 of 2013 and I.A.No.886 of 2015 from the file of III Additional Family Court, Chennai and transfer the same to the file of District Court, Tiruchendur.

The Transfer C.M.P is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

svki

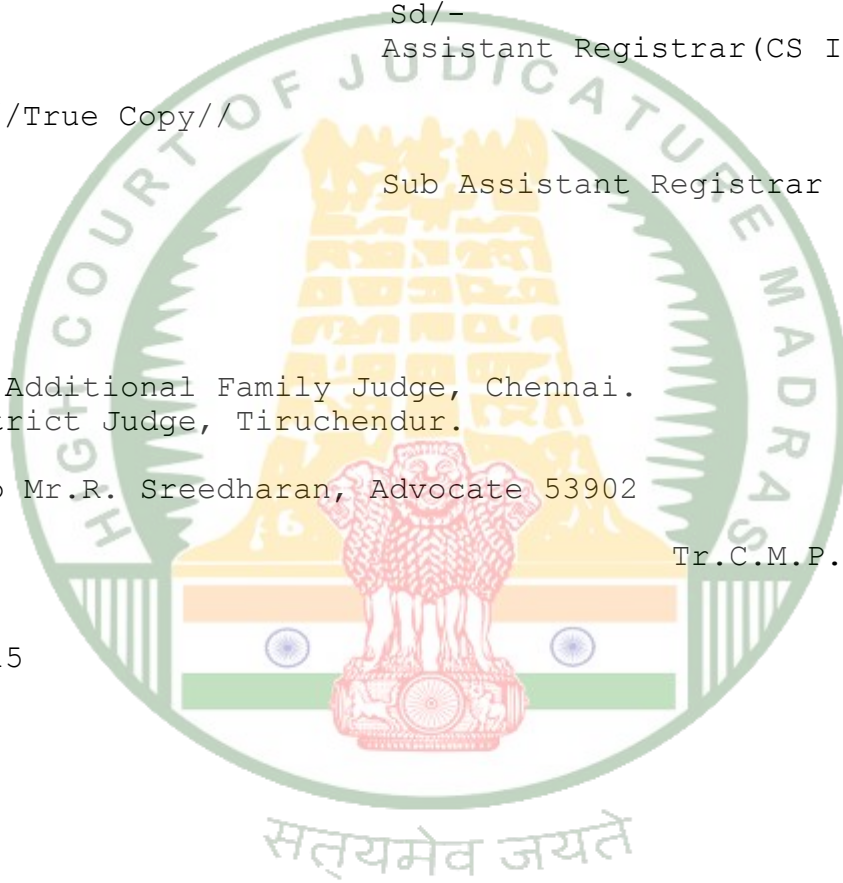
To

- 1.The III Additional Family Judge, Chennai.
- 2.The District Judge, Tiruchendur.

+ 1 cc tdo Mr.R. Sreedharan, Advocate 53902

Tr.C.M.P.No.558 of 2015

SKV(CO)
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