

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

Tr.C.M.P.No.301 of 2015

and

M.P.No.1 of 2015

S.Lakshmi .. Petitioner

Vs.

N.Ravi .. Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the petition in H.M.O.P.No.115 of 2015 from the file of the Sub Court, Tambaram and to transfer the same to the Family Court, Tiruchirapalli.

For Petitioner : Mr.K.S.Vamshidhar

For Respondent : Mr.S.Anil Sandeep

ORDER

The respondent in H.M.O.P.No.115 of 2015 pending on the file of the Sub Court, Tambaram has come forward with this petition to transfer the same to the Family Court, Trichy.

2.Learned counsel for the petitioner/wife submitted that she had three years old male child and she is residing along with her parents within the jurisdiction of the Family Court, Trichy. He further submitted that the petitioner/wife is working at Axis Bank, Lalgudi Branch and so, it is difficult for her to attend each and every hearing before the Sub Court, Tambaram to contest the case. Hence, he prayed for transfer the case in H.M.O.P.No.115 of 2015 from the file of the Sub Court, Tambaram to the file of the Family Court, Trichy.

3.Resisting the same, the learned counsel for the respondent/husband submitted that the marriage has been

performed in August 2011 and at that time, the petitioner/wife was working at Axis Bank, Lalgudi Branch. In November 2011, the petitioner/wife got transferred to Madipakkam Branch and in May 2012 she went to her parents house for delivery but after that, she has not returned back to the matrimonial home. Subsequently in the year 2014, the respondent/husband came to know that the petitioner/wife got transferred to Lalgudi Branch and now she is working there. He further submitted that in the Sub Court there is no necessity for appearance of the parties but whereas in the Family Court, appearance of the spouses are mandatory. The respondent/husband is working as Software Engineer at Chennai and hence, if the case is transferred to the Family Court, Trichy, it is very difficult for him to attend each and every hearing before the Family Court, Trichy. Hence, he prayed for dismissal of the transfer petition.

4. Considered the rival submissions made on both sides and perused the typed set of papers.

5. It is an admitted fact that the marriage has been performed in August 2011. The petitioner/wife left the matrimonial home in May 2012 for delivery but after that, she has not returned back. Admittedly, petition for divorce has been filed by the respondent/husband in H.M.O.P.No.115 of 2015 on the ground of cruelty and desertion before the Sub Court, Tambaram where lastly both the petitioner and the respondent resided together. But it is admitted by both sides that the petitioner is having three years child. Therefore, applying the guidelines laid down in 2000 (2) T.L.N.J.158 (Sudha v. Vaidyanathan), the wife is entitled to transfer the case to the place where she resides. Furthermore, as per Section 19(iii-a) of the Hindu Marriage Act, the petitioner/wife is entitled for transfer. Considering the same, I am of the view that it is fit case for transfer the case in H.M.O.P.No.115 of 2015 from the file of the Sub Court, Tambaram to the file of the Family Court, Trichy. The Presiding Officer, Sub Court, Tambaram is directed to transmit all the records pertaining to H.M.O.P.No.115 of 2015 to the file of the Family Court, Trichy within fifteen days from the date of receipt of a copy of this order.

6. Furthermore, it is pertinent to note that the respondent/husband is working as Software Engineer at Chennai and so, it is very difficult for him to attend each and every hearing before the Family Court, Trichy since the presence of the spouses are mandatory in the Family Court. In such circumstances, a direction has been given to the Presiding Officer, Family Court, Trichy to consider the personal appearance of the respondent/husband on filing the petition by the respondent/husband to dispense with his personal appearance.

7.The Transfer Miscellaneous Petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Sub Court,
Tambaram.

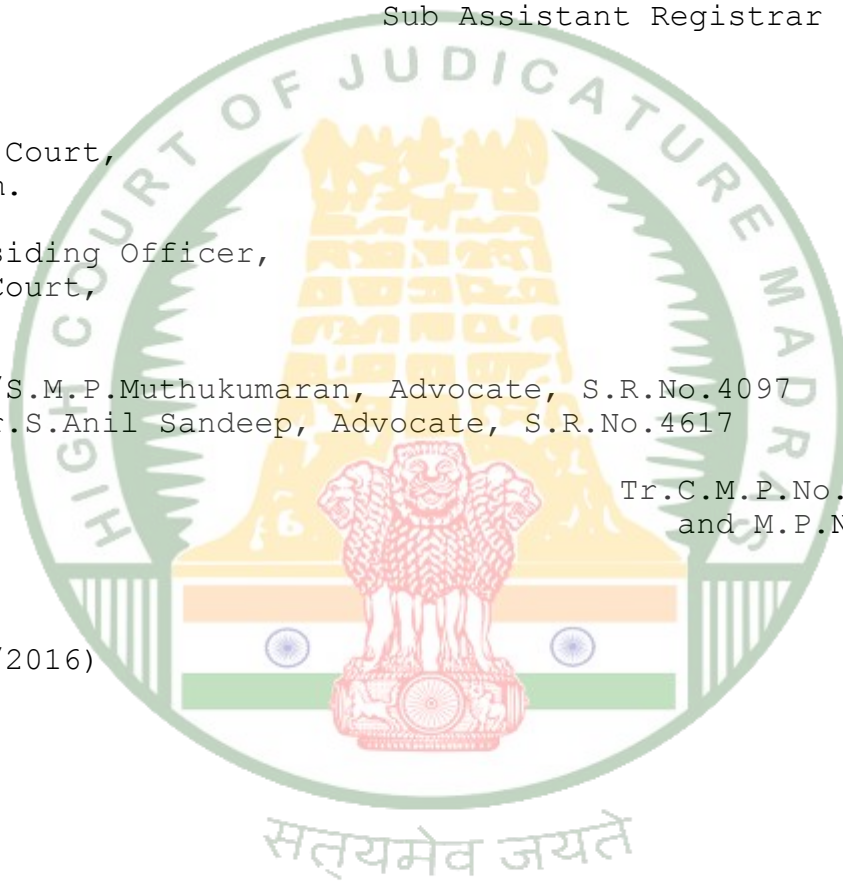
2.The Presiding Officer,
Family Court,
Trichy.

+1cc to M/S.M.P.Muthukumaran, Advocate, S.R.No.4097

+1cc to Mr.S.Anil Sandeep, Advocate, S.R.No.4617

Tr.C.M.P.No.301 of 2015
and M.P.No.1 of 2015

vd(CO)
srg(05/02/2016)



WEB COPY