

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

Tr. C.M.P.Nos.820 of 2015 and 453 of 2016
and
M.P.No.1 of 2015 and C.M.P.No.12061 of 2016

C.Srinivasan ... Petitioner in Tr.CMP.820 of 2015
and Respondent in Tr.CMP.453 of 2016

Versus

S.Sivasankari ... Respondent in Tr.CMP.820 of 2015
and Petitioner in Tr.CMP.453 of 2016

Prayer in Tr.C.M.P.No.820 of 2015: Transfer Civil Miscellaneous
Petition filed under Section 24 of C.P.C. praying to withdraw
and transfer H.M.O.P.No.56 of 2015 on the file of Sub Court,
Harur to be tried along with H.M.O.P.No.663 of 2014 on the file
of the Family Court at Erode filed by the petitioner.

Prayer in Tr.C.M.P.No.453 of 2016: Transfer Civil Miscellaneous
Petition filed under Section 24 of C.P.C. praying to withdraw
H.M.O.P.No.663 of 2014 from the file of Family Court, Erode and
transfer the same to be tried along with H.M.O.P.No.56 of 2015
pending on the file of the Sub Court, Harur.

For Petitioner in Tr.CMP
No.820 of 2015 and
Respondent in Tr.CMP : Ms.C.Uma
No.453 of 2016

For Respondent in Tr.CMP
No.820 of 2015 : Mr.C.S.Saravanan
Petitioner in Tr.CMP
No.453 of 2016

COMMON ORDER

The petitioner in Tr.C.M.P.No.820 of 2015 filed
H.M.O.P.No.663 of 2014 before the Family Court, Erode, praying
for a decree of divorce. The petitioner in Tr.C.M.P.No.453 of
2016 filed H.M.O.P.No.56 of 2015 before the Sub Court, Harur,
praying for a decree under Section 9 of the Hindu Marriage Act,
1955. The parties have filed these Transfer Petitions to

transfer the proceedings in H.M.O.P.No.663 of 2014 from the file of Family Court, Erode, to the file of Sub Court, Harur (Tr.C.M.P.No.453 of 2015) and to transfer the proceedings in H.M.O.P.No.56 of 2015 from the file of Sub Court, Harur, to the file of Family Court, Erode.

2. Heard the learned counsel for the petitioner in the respective Transfer Petitions.

3. There are two proceedings now pending before two different Courts. The Original Petition in H.M.O.P.No.663 of 2014 filed by the husband for a decree of divorce is pending before the Family Court, Erode. The Original Petition in H.M.O.P.No.56 of 2015 filed by the wife for a decree of restitution of conjugal rights is pending before the Sub Court, Harur. In case, two proceedings involving a common question are allowed to be prosecuted in two different courts, there is a possibility of passing contradictory orders in the very same subject matter.

4. Section 19(iii) of the Hindu Marriage Act, permits the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of proceedings.

5. Moreover, the petitioner in Tr.C.M.P.No.453 of 2016 is residing at Hosur along with her minor child. It is the grievance of the wife that the husband has not been paying maintenance inspite of a direction given by the Trial Court.

6. The petitioner in Tr.C.M.P.No.453 of 2016 has produced sufficient materials justifying her request for transfer. I am therefore of the view that Tr.C.M.P.No.453 of 2016 deserves to be allowed.

7. The proceedings in H.M.O.P.No.663 of 2014 is withdrawn from the file of Family Court, Erode and is transferred to the file of Sub Court, Harur, for disposal along with H.M.O.P.No.56 of 2015.

8. In the result, Tr.C.M.P.No.453 of 2016 is allowed and Tr.C.M.P.No.820 of 2015 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

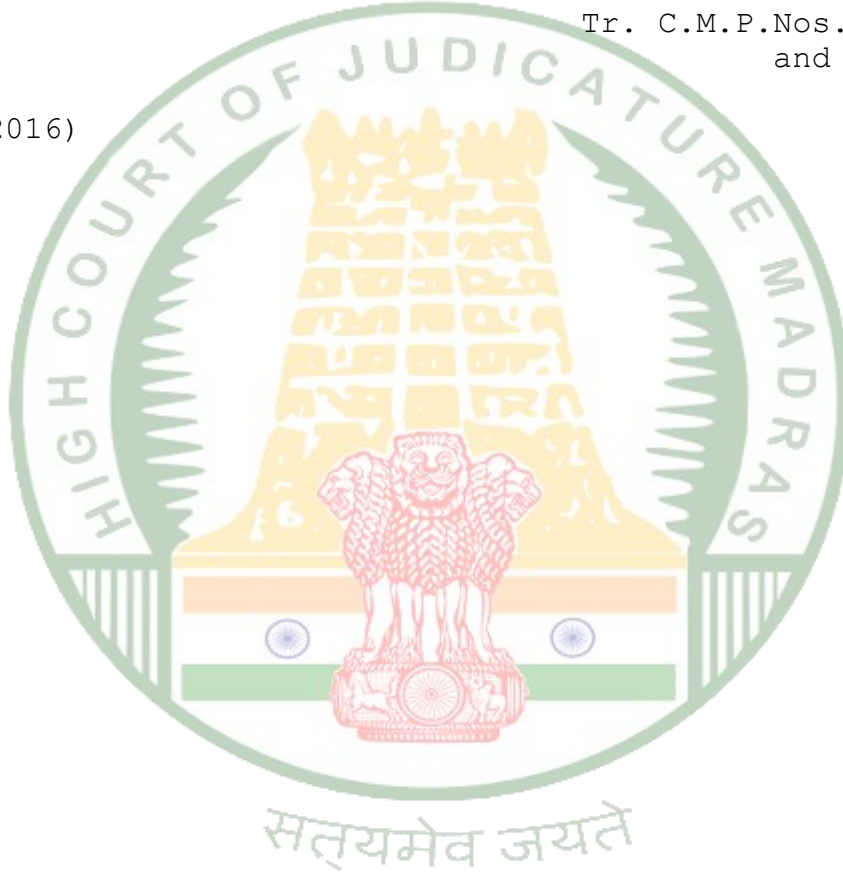
To

1. The Sub Court,
Harur.
2. The Family Court,
Erode.

+1cc to Mr.C.Uma, Advocate, S.R.No.62079

Tr. C.M.P.Nos.820 of 2015
and 453 of 2016

CA(29/11/2016)



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