

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

Tr.C.M.P.No.108 of 2016
and C.M.P.No.2308 of 2016
and
Tr.C.M.P.No.167 of 2016
and C.M.P.No.4767 of 2016

P.C.Sakthivel

... Petitioner in
Tr.C.M.P.108/2016
... Respondent in
Tr.C.M.P.167/2016

Vs.

M.Sangamitharai

... Respondent in
Tr.C.M.P.108/2016
... Petitioner in
Tr.C.M.P.167/2016

Prayer in Tr.C.M.P.No.108 of 2016 : Transfer Civil
Miscellaneous Petition filed under Section 24 of C.P.C. to
withdraw the petition in H.M.O.P.No.289 of 2015 on the file of
the Family Court, Erode and try along with H.M.O.P.No.183 of
2015 on the file of the Sub Court, Pollachi may be transferred
to Family Court, Coimbatore.

Prayer in Tr.C.M.P.No.167 of 2016 : Transfer Civil
Miscellaneous Petition filed under Section 24 of C.P.C. to
withdraw the petition in H.M.O.P.No.183 of 2015 on the file of
the Subordinate Judge's Court at Pollachi and transfer the
same to the file of the Family Court at Erode to be tried
along with the petition in H.M.O.P.No.289 of 2015.

For Petitioner in Tr.C.M.P.108/2016 : Mr.C.Veeraraghavan
For Respondent in Tr.C.M.P.108/16/
Petitioner in Tr.C.M.P.167/2016 : Mr.P.Valliappan

C O M M O N O R D E R

The wife is the petitioner in Tr.C.M.P.No.167 of
2016. The husband is the petitioner in Tr.C.M.P.No.108 of
2016. The wife filed H.M.O.P.No.289 of 2015 on the file of
the Family Court, Erode, for divorce. The husband filed

H.M.O.P.No.183 of 2015 on the file of the Sub Court, Pollachi, for restitution of conjugal rights. In fact, the petition filed by the wife was earlier in point of time. Now, the wife seeks the transfer of the H.M.O.P.No.183 of 2015 filed by her husband from the file of the Sub Court, Pollachi to the file of the Family Court, Erode for being tried along with her H.M.O.P.No.289 of 2015. The husband has filed Tr.C.M.P.No.108 of 2016 to transfer both the H.M.O.P.s, from the file of the Family Court, Erode and from the Sub Court, Pollachi to the Family Court at Coimbatore.

2. The husband contends that the wife is residing at Coimbatore and for the reasons best known to her, she selected the jurisdiction of Family Court at Erode. Of course, in the preamble portion of the petition for divorce filed by the wife, she has furnished the address of her parents as her residential address. However, in the body of the petition, she has made it clear that six months prior to the filing of the petition, she migrated to Erode and is now residing at No.9/267/2, Moovendar Nagar, Elavamalai Post, Erode. The learned counsel for the husband submits that the said address is that of the sister of his wife and she has used that address to file the H.M.O.P. before the Family Court, Erode.

3. On the other hand, it is the contention of the learned counsel for the wife that, since she was not getting well with her parents, she had to take asylum under her sister and hence, she had to file the H.M.O.P. for divorce in the Family Court, Erode. In the H.M.O.P. filed by the husband, namely, H.M.O.P.No.183 of 2015 on the file of the Sub Court, Pollachi, the above said Erode address alone has been furnished as the address of the wife. The notice in the Tr.C.M.P.No.108 of 2016 came to be sent to Coimbatore address, but the same was re-directed to her Erode address and served on her. The registered envelope without its contents alone has been produced by the wife for substantiating the said contention.

4. From the above, it is quite clear that the husband knows pretty well that the wife is now residing at Erode and has rightly selected the jurisdiction of the Family Court at Erode. Only as a counter blast, the husband has chosen to file the petition for restitution of conjugal rights in the Sub Court, Pollachi. The prayer made by the husband for transfer of both the cases to Coimbatore cannot be sustained. On the other hand, the transfer of H.M.O.P.No.183 of 2015 from the file of the Sub Court, Pollachi to the file of the Family Court, Erode to be tried along with H.M.O.P.No.289 of 2015 sought for by the wife has got to be countenanced. Hence, Tr.C.M.P.No.108 of 2016 filed by the husband is dismissed. Tr.C.M.P.No.167 of 2016 filed by the wife is allowed. H.M.O.P.No.183 of 2015 is withdrawn from the file of the Sub Court, Pollachi and transferred to the file of the Family Court, Erode to be tried along with H.M.O.P.No.289

of 2015. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gya

1.The Subordinate Judge, Pollachi.

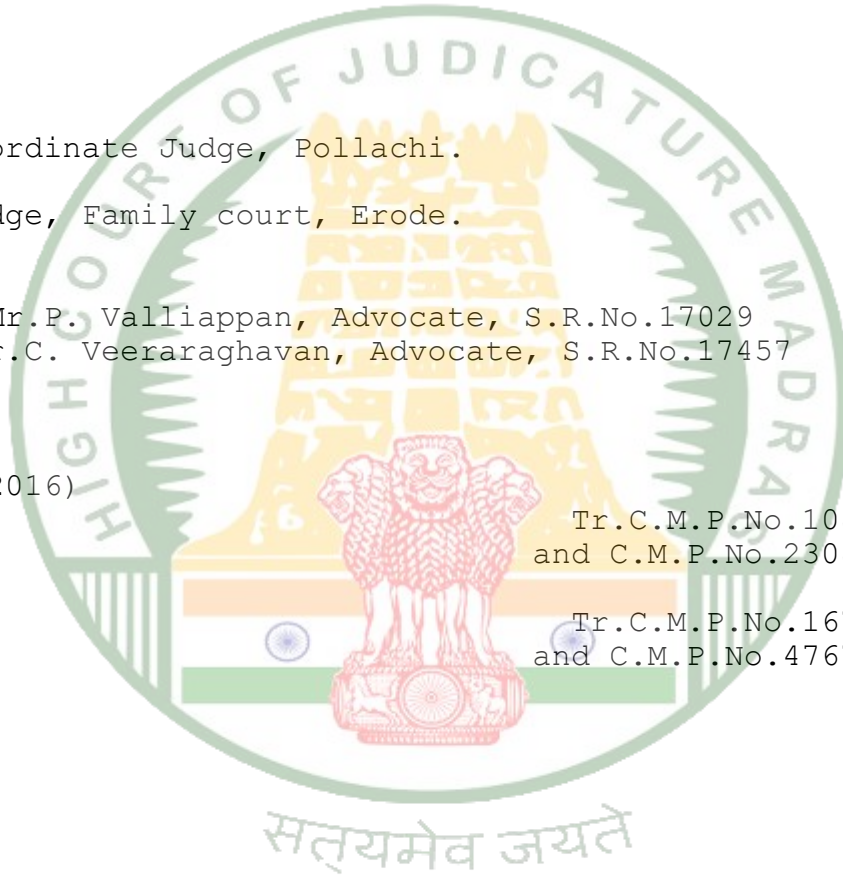
2. The Judge, Family court, Erode.

+2ccs to Mr.P. Valliappan, Advocate, S.R.No.17029

+1cc to Mr.C. Veeraraghavan, Advocate, S.R.No.17457

BVRCO)
EU(30/03/2016)

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