

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

TR CMP NO.552 OF 2016

AND CMP NO.15082 OF 2016

T.Devaki

... Petitioner

Versus

Rajendran

... Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code with a prayer to withdraw the H.M.O.P.No.54 of 2016 on the file of the Principal Subordinate Court, Thiruvannamalai and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.S.Nambirajan
For Respondent : Mr.B.Jawahar

O R D E R

The respondent initiated a matrimonial proceedings in H.M.O.P.No.54 of 2016, before the Principal Subordinate Court, Thiruvannamalai, praying for a decree of divorce.

2. The petitioner, who was shown as respondent in the said proceedings, has come up with this petition for transfer.

3. The petitioner is a resident of Chennai. The matrimonial proceedings initiated by the respondent in H.M.O.P.No.54 of 2016 is pending before the Principal Subordinate Court, Thiruvannamalai. According to the petitioner, it would not be possible for her to travel all along from Chennai to Thiruvannamalai, for the purpose of defending the proceedings in H.M.O.P.No.54 of 2016.

4. The respondent filed a counter affidavit wherein it was indicated that being a Coolie, it would not be possible for him to undertake journey from Thiruvannamalai to Chennai.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. The transfer petition is opposed by the respondent only on the ground that being a Family Court, his appearance is compulsory. No other grounds are mentioned in the counter affidavit

filed by the respondent.

7. The petitioner is residing at Chennai along with her minor child. There is nothing on record to show that the respondent has been giving maintenance to the petitioner. The petitioner is therefore perfectly justified in her contention that it would not be possible for her to defend the proceedings in H.M.O.P.No.54 of 2016 properly in case the same is continued before the Principal Subordinate Court, Thiruvannamalai.

8. The fact that the respondent also would not be in a position to travel from Thiruvannamalai to Chennai cannot be a reason to reject the request made by the petitioner. The respondent would be justified in his contention, in case he is paying maintenance to the petitioner and her daughter. However, the fact remains that maintenance has not been paid to the petitioner. I am therefore of the view that the petitioner has made out a case for transfer.

9. Section 19(iii-a) of the Hindu Marriage Act, 1955, permits the wife to initiate matrimonial proceedings before the Court in whose jurisdiction she is residing at the time of institution of proceedings.

10. The proceedings H.M.O.P.No.54 of 2016 is withdrawn from the file of Principal Subordinate Court, Thiruvannamalai, and is transferred to the file of Principal Family Court, Chennai, for disposal on merits.

11. The Transfer Civil Miscellaneous Petition is allowed as indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/
सत्यमेव जयते

Sub Asst. Registrar

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TK

To

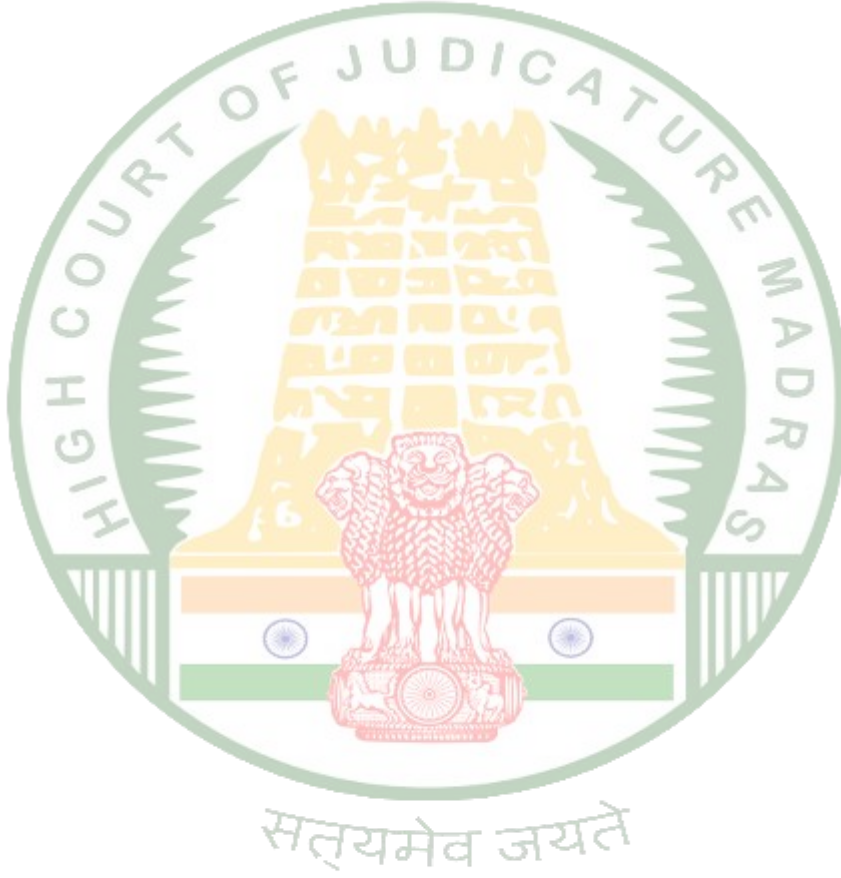
1.The Principal Subordinate Court
Thiruvannamalai.

2.The Family Court
Chennai.

+1 CC to M/S.S.Nambirajan, Advocate SR.No.67295

CO-AD
ths : 29.12.2016

TR CMP NO.552 OF 2016



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