

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

Tr.C.M.P.No.608 of 2016

N.Thangamani : Petitioner

versus

S.Meivel : Respondent

Transfer Petition filed to withdraw HMOP No.21 of 2015 on the file of Subordinate Court, Bhavani, Erode District and to transfer the same to the file of Family Court, Chennai.

For Petitioner : Mr.N.Mariappan
For Respondent : Mr.C.Kulanthaivel

O R D E R

The petitioner has filed this transfer petition seeking withdrawal of the proceedings in HMOP No.21 of 2015 on the file of the Subordinate Court, Bhavani and transfer the same to the file of Family Court, Chennai, for disposal.

2. When the transfer petition came up for hearing on 23 November 2016, the learned counsel for the parties submitted that there is a likelihood of settlement, in case, parties are summoned to this Court. I have therefore directed both the parties to appear before me today.

3. The petitioner and the respondent appeared before me. The parties, after deliberation, in the presence of their respective counsel, agreed to compromise the matter, so as to give quietus to the matter.

4. The parties thereafter prepared a joint memorandum of compromise and filed it before me. The joint memorandum of compromise dated 28 November 2016 reads thus:-

"1. The petitioner is the wife of the respondent herein.

2. The petitioner herein hereby undertakes that she will withdraw the

calendar case No.18 of 2014 pending on the file of the Judicial Magistrate Court, Bhavani, Erode District.

3. The petitioner herein hereby undertakes that she gives up her right of interim or permanent maintenance from the respondent herein.

4. The petitioner herein hereby further undertakes that she will not claim any right, interest or title over the property belonging to the respondent herein or his predecessor-in-title. Further, both undertake that they will not disturb the peaceful possession and enjoyment of the properties belonging to each other.

5. The respondent herein hereby undertakes that he will give no objection to grant divorce in HMOP No.21 of 2015 filed by the petitioner herein for divorce pending on the file of Subordinate Court, Bhavani, Erode District. Both undertake that they will appear before the Judicial Magistrate Court, Bhavani and the Sub Court, Bhavani on 06.12.2016 and set the cases closed.

6. The petitioner herein agrees that she has no objection to the respondent to enter into the house or to break open the lock if any available in any of the rooms of the respondent's house.

7. Both undertake that the petitioner and the respondent shall not have any claims over any immovable belongings, jewels and vessels against each other.

5. The petitioner submitted before me that she has absolutely no claim against the respondent henceforth, including claim in respect of matrimonial home. According to the petitioner, she is not in possession of the key of the residential house and as such, it is open to the respondent to open the house and occupy the same.

6. The respondent on the other hand submitted that he has no claim against the petitioner on any account and he would abide by the joint memo of compromise.

7. The parties have agreed for dissolution of marriage on mutual consent.

8. The matter is now posted before the Subordinate Judge, Bhavani on 6 December 2016. The parties agreed to file a joint petition for divorce by mutual consent on 6 December 2016 after withdrawing the petition in H.M.O.P.No.21 of 2015. Since the petitioner has settled the matter with the respondent amicably, necessarily, she should be permitted by the Subordinate Judge, Bhavani, to withdraw the proceeding in HMOP No.21 of 2015 on 6 December 2016.

9. The learned Subordinate Judge, Bhavani is directed to entertain a fresh joint petition for divorce by mutual consent on 6 December 2016 and decide it taking into account the spirit of the settlement.

10. The learned Judicial Magistrate, Bhavani is directed to post C.C.No.18 of 2014 for compounding on 6 December 2016, in view of the undertaking given by the petitioner that she would compound the matter with the respondent. The parties are permitted to file a petition before the Trial Court to compound the case in C.C.No.18 of 2014. The learned Judicial Magistrate is directed to entertain the compounding petition and dispose of the same on 6 December 2016 itself, in view of the settlement. Since the parties have decided to dissolve the marriage by mutual consent, every effort shall be taken by the learned Subordinate Judge, Bhavani, to dissolve the marriage by mutual consent, at the earliest.

11. The Transfer Civil Miscellaneous petition is disposed of with the above direction. No costs. Consequently, C.M.P.No.16366 of 2016 is closed.

Sd/-
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Assistant Registrar

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Sub Assistant Registrar

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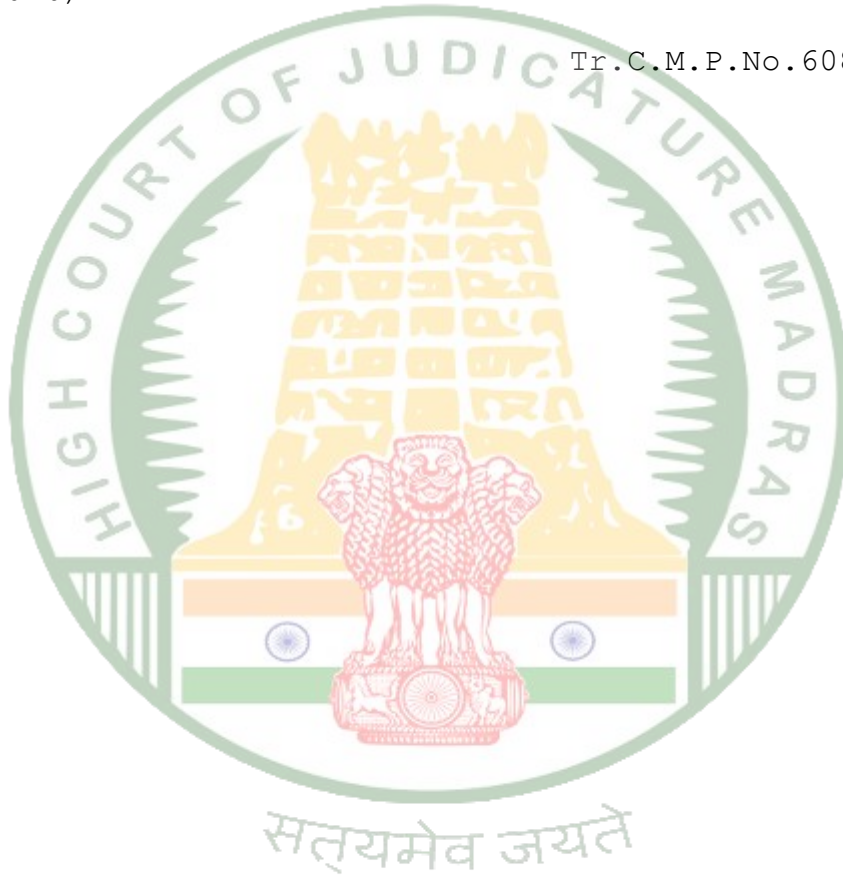
To

- 1.The Subordinate Judge, Bhavani, Erode District.
- 2.The Judicial Magistrate, Bhavani, Erode Distrit.

+lcc to Mr.N. Mariyappan, Advocate, S.R.No.68583
+lcc to Mr.C. Kulanthaivel, Advocate, S.R.No.69703

pk(CO)
md(29/11/2016)

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