

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.110 of 2017
and C.M.P.No.1769 of 2017

C.Padmavathy

... Petitioner

Vs.

S.Madhan Mohan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer FCOP.No.209 of 2016 pending on the file of the Family Court, Vellore to the file of the Principal Subordinate Court, Krishnagiri to be heard along with H.M.O.P.No.5 of 2017.

For Petitioner : Mr.V.Nicholas

For Respondent : Mr.K.Karthick Asad for
K.R.Sampath

O R D E R

This petition is filed to withdraw and transfer FCOP.No.209 of 2016 pending on the file of the Family Court, Vellore to the file of the Principal Subordinate Court, Krishnagiri to be heard along with H.M.O.P.No.5 of 2017 pending on its file.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.07.2014 as per the Hindu rites and customs. After the marriage, both the petitioner and the respondent resided at No.26, 4th Cross Street, Dhandeeswaram Nagar, Velacherry, Chennai in the matrimonial home. From the date of marriage, the respondent and his parents insisted and forced the petitioner to bring dowry and sent her back to her parental home. The petitioner gave a compliant before the Inspector of Police, Krishnagiri. Subsequently the respondent filed FCOP No.209 of 2016 for divorce before the Family Court, Vellore. The petitioner has also filed HMOP No.5 of 2017 for restitution

of conjugal rights on the file of the Principal Subordinate Judge, Krishnagiri and also another petition under Section 125 of Cr.P.C. claiming maintenance from the respondent.

3. According to the petitioner, she is residing at Krishnagiri. The distance between Vellore and Krishnagiri is more than 120 kilo metres and the petitioner is not working and not having any independent income and she is depending only on her father for day-to-day life expenses. The petitioner's father is an agriculturist and finds it difficult to maintain the petitioner and her mother. In the circumstances, she has come out with the present transfer petition, as it is very difficult for her to travel from Vellore to Krishnagiri to attend the hearing of the case. Therefore, she prays for transfer of F.C.O.P.No.209 of 2016 from the file of the Family Court, Vellore to the file of the Principal Sub-Court, Krishnagiri and to try the same along with H.M.O.P.No.5 of 2017 pending on its file.

4. The learned counsel for the respondent submitted that the petitioner filed HMOP No.5 of 2017, making false allegations against the respondent and she voluntarily went from the matrimonial home, and it will be very difficult for the respondent if the said case is transferred from Vellore to Krishnagiri and prayed for dismissal of the transfer petition.

5. It is well settled law whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another].

6. Having regard to the submissions made by the learned counsel for the petitioner and the respondent, the petition in FCOP.No.209 of 2016 is ordered to be withdrawn from the file of the Family Court, Vellore and transferred to the file of the Principal Subordinate Court, Krishnagiri and to be tried along with H.M.O.P.No.5 of 2017, in the same Court for joint trial. The Family Court, Vellore, is directed to transmit all the records pertaining to F.C.O.P.No.209 of 2016 to the file of the Principal Subordinate Court, Krishnagiri, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Family Court,
Vellore.

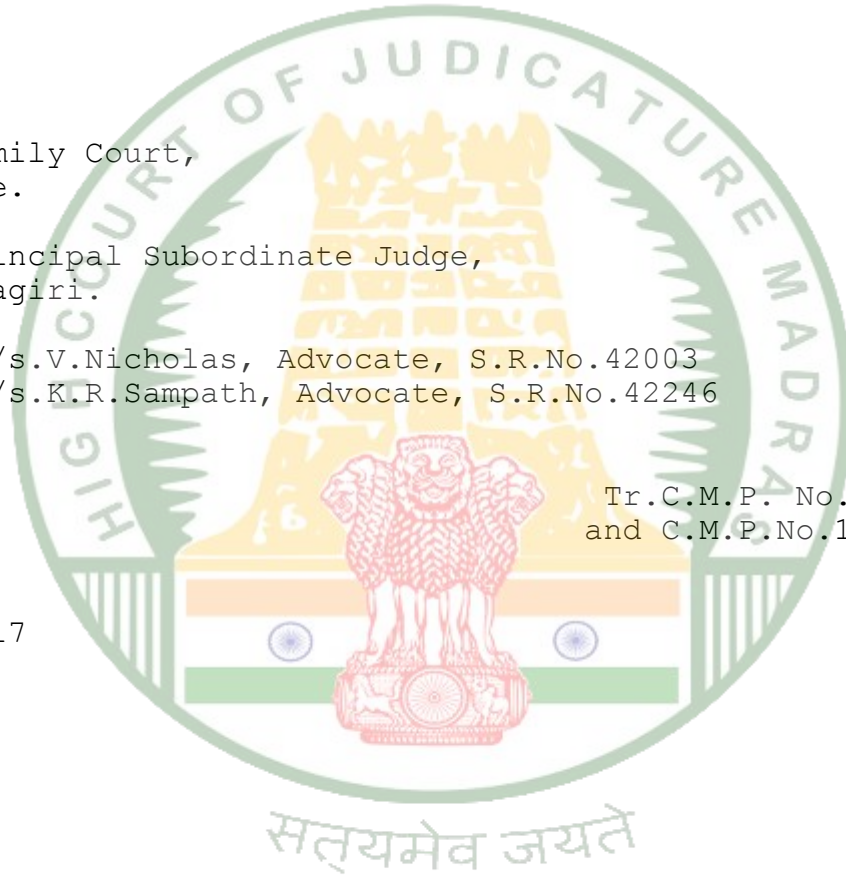
2. The Principal Subordinate Judge,
Krishnagiri.

+1cc to M/s.V.Nicholas, Advocate, S.R.No.42003

+1cc to M/s.K.R.Sampath, Advocate, S.R.No.42246

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