

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2017

CORAM :

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

Tr.C.M.P. No.157 of 2017
and C.M.P.No.2969 of 2017

P.Prasanna Mythili .. Petitioner/Respondent

Vs.

K.S.Suresh ... Respondent/Petitioner

Prayer: Petition has been filed under Section 24 of C.P.C., to withdraw the F.C.O.P. No.312 of 2016 on the file of the Family Court, Salem and transfer the same to Family Court, Erode.

For Petitioner : Mr.M.Guruprasad

For Respondent : No Appearance

ORDER

This transfer petition is filed to withdraw the proceedings in F.C.O.P. No.312 of 2016 on the file of the Family Court, Salem and to transfer the same to Family Court, Erode.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 30.10.2014 as per Hindu rites and customs. Due to the difference of opinion that arose between the petitioner and respondent, they are living separately. The respondent filed F.C.O.P. No.312 of 2016 on the file of Family Court, Salem for divorce. The petitioner has filed a petition in F.C.O.P.No.26 of 2017 on the file of Family Court, Erode for restitution of conjugal rights. She had also filed a petition in D.V.C.No.6 of 2016 on the file of the Judicial Magistrate Court No.I, Erode.

3. The learned counsel for the petitioner has submitted that convenience of wife should be given preference in matrimonial cases. He also submitted that if the matrimonial proceedings are heard together, there is a chance of avoiding conflicting

decisions and hence prayed for transfer of F.C.O.P. No.312 of 2016 on the file of the Family Court, Salem to the file of Family Court, Erode.

4. Though notice was served on the respondent and his name printed in the cause-list, there is no representation for the respondent either in person or through counsel.

5. Heard the learned counsel for the petitioner.

6. It is well settled law that 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].

7. Having regard to the submissions made by the learned counsel for the petitioner and by relying on the above decision, the petition in F.C.O.P.No.312 of 2016 is ordered to be withdrawn from the file of the Family Court, Salem and transferred to the file of Family Court, Erode. Considering the convenience of both parties and to avoid conflicting decisions, both F.C.O.P.No.312 of 2016 pending on the file of the Family Court, Salem and F.C.O.P.No.26 of 2017 filed by the petitioner pending on the file of the Family Court, Erode are to be tried together in the same Court, for joint trial. The Family Court, Salem is directed to transmit all the records pertaining to F.C.O.P. No.312 of 2016 to the Family Court, Erode within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the Family Court, Erode, is directed to dispose of both the cases at the earliest.

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

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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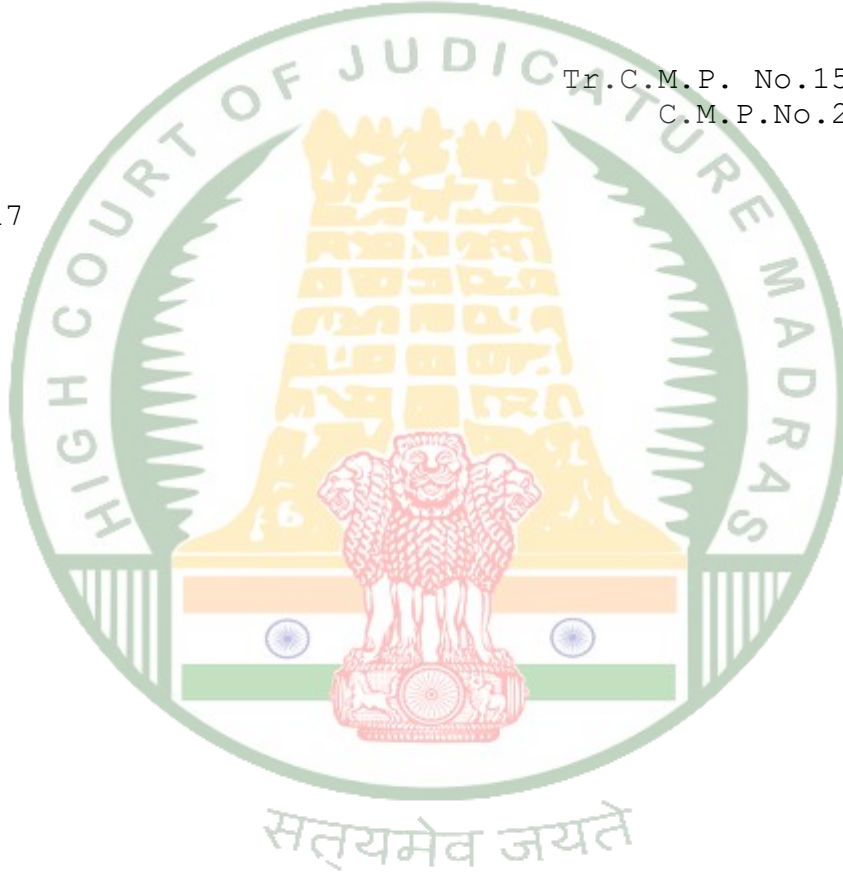
To

1. The Judge,
The Family Court,
Salem.
2. The Judge,
The Family Court,
Erode.

+1CC to Mr.M.Guruprasad, Advocate, Sr.No.43402

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MSM(CO)
CS/11/07/17



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