

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.17 of 2017
and CMP.No.487 of 2017

R.Sanjana

... Petitioner

Vs.

M.Vijaykeerti

... Respondent

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw and transfer H.M.O.P.No.43 of 2016, on the file of the Sub-Court, Bhavani to the Family Court, Chennai.

For Petitioner : Mr.A. Kumaraguru
For Respondent : Mr.N. Manokaran

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P.No.43 of 2016 pending on the file of the Sub-Court at Bhavani and transfer the same to the file of Family Court, Chennai.

2. The petitioner is the wife and respondent is the husband. Marriage between the petitioner and respondent was conducted on 09.09.2015 as per Hindu rites and customs. Due to difference of opinion between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.43 of 2016 on the file of the Sub-Court, Bhavani, for divorce.

3. According to the petitioner, she is residing along with her parents in Chennai. The petitioner is a house wife and she is depending on her parents for her livelihood. The distance between Chennai and Bhavani is more than 430 kilometers and hence, it is very difficult for her to travel from Chennai to Bhavani to attend the hearing. Therefore, the petitioner prays that the petition in H.M.O.P.No.43 of 2016 may be withdrawn from the file of Sub-Court, Bhavani and transferred to the file of Family Court, Chennai.

4. The learned counsel for the respondent submitted that the case is now pending before the Sub-Court, Bhavani, wherein presence of spouse is not mandatory. But whereas in the Family Court, presence of spouse is necessary for each and every hearing. If the case is transferred from the Sub-Court, Bhavani to the Family Court, Chennai, the respondent has to appear before the Court for each and every hearing, which is very difficult for him. Hence, he prayed for dismissal of the petition.

5. Heard both sides.

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 on both sides and by relying on the above decision, the petition in H.M.O.P. No.43 of 2016 is ordered to be withdrawn from the file of Sub-Court, Bhavani and transferred to the file of Family Court, Chennai. The Sub-Court, Bhavani, is directed to transmit all the records pertaining to H.M.O.P.No.43 of 2016 to the file of Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said proceedings, Family Court, Chennai, is directed to dispose of H.M.O.P.No.43 of 2016 as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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To:

1.The Sub-Court, Bhavani.

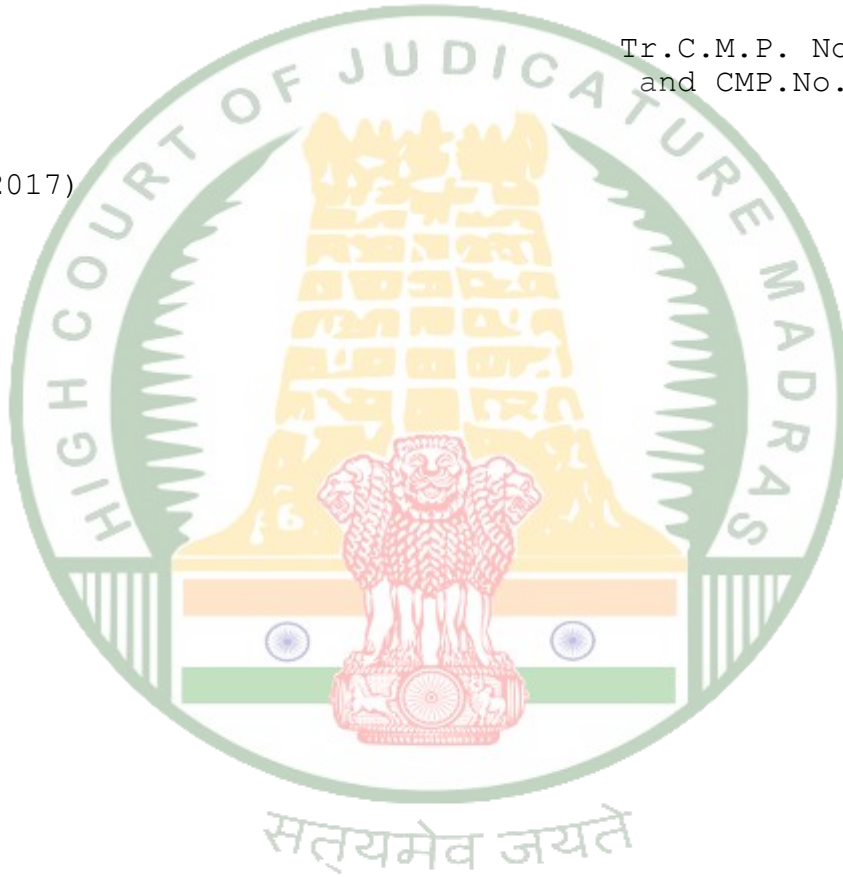
2.The Family Court, Chennai.

+1cc to Mr.N.Manokaran, Advocate Sr. 42793

+1cc to Mr.A.Kumaraguru. Advocate Sr. 42575

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VR(05/07/2017)



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