

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.207 of 2017
and C.M.P.No.3818 of 2017

M.Sathya ... Petitioner/Respondent

Vs.

Sasikumar ...Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. to withdraw the HMOP No.10 of 2016 pending on the file of the learned Subordinate Judge, Dharapuram and to transfer the same to the Subordinate Court, Palani to be tried alongwith HMOP No.14 of 2017.

For Petitioner : Mr.U.Prabhu

For Respondent : No appearance.

O R D E R

The petitioner / wife has come with the present transfer civil miscellaneous petition against the respondent / husband for transfer of HMOP No.10 of 2016 pending on the file of the Learned Subordinate Judge, Dharapuram to the file of the learned Subordinate Judge, Palani, to be tried alongwith HMOP No.14 of 2017 filed by her.

2. The marriage between the petitioner and the respondent was solemnized on 27.11.2014 at Sri Velavar Thirumana Mandam at Dharapuram, as per Hindu rites and customs. After the marriage, both the petitioner and respondent were living together at their matrimonial home at Dharapuram. During the year 2015, the respondent ill-treated the petitioner and sent her from the matrimonial home. While the parents of the petitioner were taking steps for re-union through elders and well wishers, the respondent filed HMOP No.10 of 2016 on the file of Sub Court, Dharapuram for divorce on the ground of desertion with false allegations. Subsequently, the petitioner filed HMOP No.14 of 2017 on the file of Sub Court, Palani for restitution of conjugal rights.

3. According to the petitioner, she is hailing from a poor family and is an unemployed women. She has discontinued her MCA studies after her marriage and presently living with her parents and depending upon them for her livelihood. Hence, pending HMOP No.10 of 2016, the petitioner filed IA No.1370 of 2016 seeking interim maintenance of Rs.20,000/- per month. However, the respondent/husband filed counter and contested the said application. After hearing both the parties, the learned Subordinate Judge, Dharapuram allowed the application by ordering a sum of Rs.2,000/- per month as interim maintenance to be paid by the respondent/husband to the petitioner/wife. Aggrieved against the said order, the petitioner filed CRP No.337 of 2017 before this Court for enhancement of interim maintenance and the same is pending.

4. The learned counsel for the petitioner would submit that the petitioner herein is residing at Palani with her parents and she finds it difficult to travel and attend the Court at Dharapuram. He would further submit that the petitioner is being threatened by the respondent whenever she attends the proceedings at Sub Court, Dharapuram and therefore the case may be transferred to Sub Court at Palani.

5. Though the respondent / husband has been served by taking private notice and through Court and his name has been printed in the cause list, he has not chosen to appear either in person or through counsel.

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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.10 of 2016 from the file of Sub Court, Dharapuram to the file of Sub Court, Palani to be tried alongwith H.M.O.P. No.14 of 2017 filed by the petitioner for restitution of conjugal rights.

7. Taking into consideration the above facts, for convenience of both parties and to avoid conflicting decisions, both H.M.O.P.No.10 of 2016 pending on the file of the Sub Court, Dharampuram and H.M.O.No.14 of 2017, pending on the file of the Sub Court, Palani are to be tried together in the same Court, for joint trial.

8. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of and H.M.O.P.No.10 of 2016 pending on the file of the Sub Court, Dharapuram, is hereby withdrawn and transferred to the file of Sub Court, Palani. The learned Subordinate

Judge, Dharapuram is directed to send the case bundles to the Subordinate Judge, Palani immediately, after receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

rgr

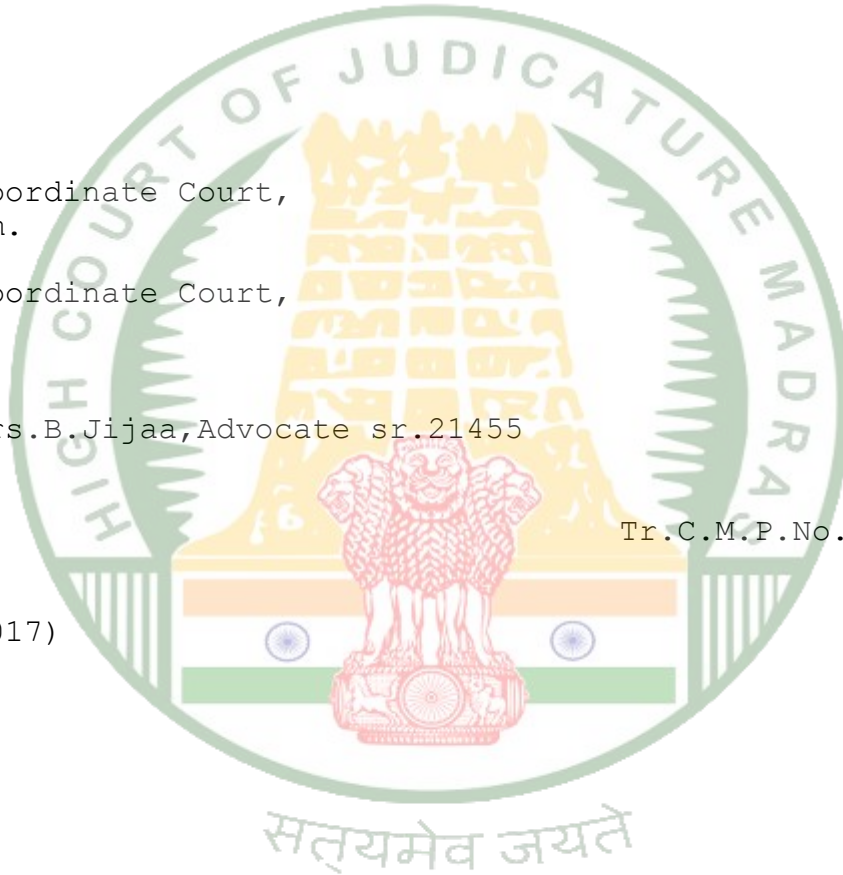
To

1. The Subordinate Court,
Dharapuram.
2. The Subordinate Court,
Palani.

+1cc to Mrs.B.Jijaa,Advocate sr.21455

Tr.C.M.P.No.207 of 2017

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ss (24/4/2017)



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