

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

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

Tr. C.M.P No.208 of 2017
& C.M.P.No.3859 of 2017

Mrs.Seetha ... Petitioner/Respondent

Vs.

Mr.R.Gowtham Krishnan Respondent/petitioner

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.337 of 2016 pending on the file of the Sub-Court at Tiruppur and transfer the same to the Hon'ble Sub Court, Thirupathur.

For Petitioner : Mr.S.Ashok Kumar

For Respondent : Mr.J.Franklin

O R D E R

This petition is filed to withdraw the H.M.O.P.No.337 of 2016 pending on the file of the Sub-Court at Tiruppur and transfer the same to the Sub Court, Thirupathur.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 05.04.2015 as per Hindu rites and customs. In the wedlock, a female child was born on 23.04.2016. Due to difference of opinion, the petitioner and the respondent are living separately. The petitioner filed H.M.O.P No.72 of 2016 on the file of Sub Court, Tirupathur for divorce. On receipt of summons, the respondent filed H.M.O.P.No.337 of 2016 on the file of Sub Court, Tiruppur for restitution of conjugal rights.

3. According to the petitioner, she is residing at Tirupathur alongwith her parents and minor child. The distance between Tirupathur and Tiruppur is 350 kms and it is very difficult for her to attend each and every hearing before Sub Court, Tiruppur alongwith her minor child. She is not having any independent income and is depending on her parents for her

day-to-day expenses, including the travelling expenses. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition.

4. Heard the learned counsel for the petitioner, respondent and perused the materials available on record.

5. The learned counsel for the respondent strongly objected for transfer of H.M.O.P.No.337 of 2016 from the file of the Sub-Court, Tiruppur to Sub Court, Thirupathur.

6. 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.337 of 2016 filed by the respondent, from the file of Sub Court, Tiruppur, to the file of Sub Court, Tirupathur where H.M.O.P.No.72 of 2016 filed by the petitioner for divorce, is pending.

7. Considering the facts and circumstances of the present case and having satisfied with the reasons given in the affidavit filed in support of the petition, without deciding the issue on merits, the petition in H.M.O.P.No.337 of 2016 is ordered to be withdrawn from the file of Sub Court, Tiruppur and transferred to the file of the Sub Court, Tirupathur, to be tried alongwith HMOP No.72 of 2016, pending on its file. The Presiding Officer, Sub Court, Tiruppur is directed to transmit all the records pertaining to H.M.O.P.No.337 of 2016 to the file of the Sub Court, Tirupathur within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the Presiding Officer, Sub Court, Thirupathur is directed to dispose of both HMOP Nos.72 of 2016 & 337 of 2016, as expeditiously as possible.

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

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rgr

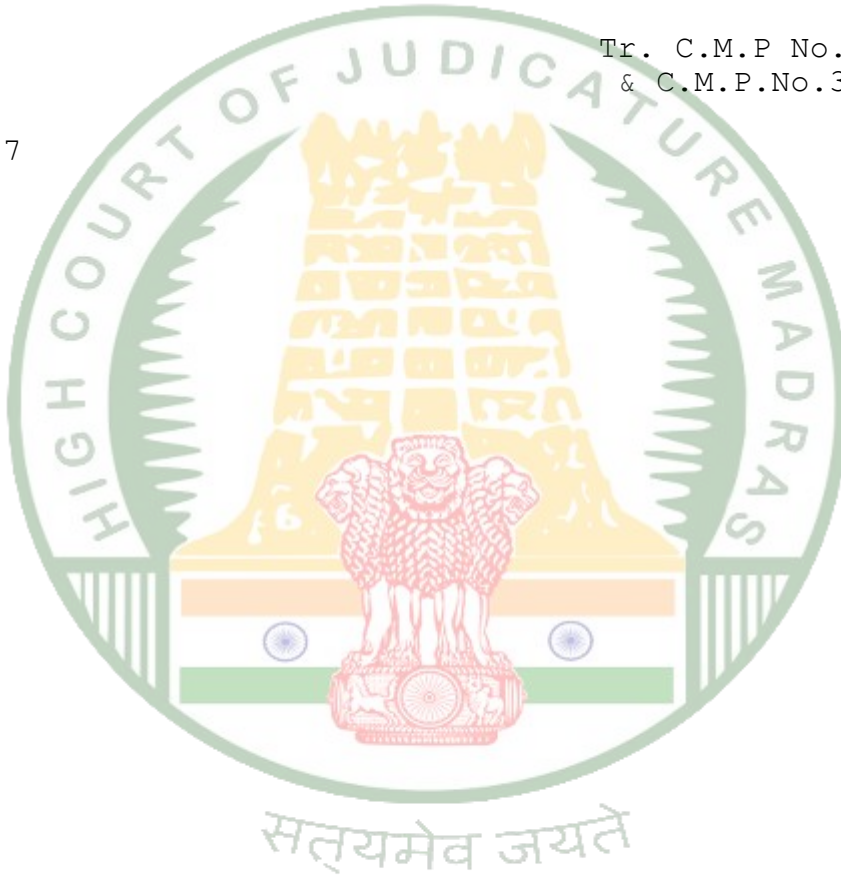
To

1. The Subordinate Judge,
Tiruppur.
2. The Subordinate Judge,
Tirupathur.

+lcc to Mr.S.Ashok Kumar, Advocate, S.R.No.45524

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CS/12/07/17



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