

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.232 of 2017
and CMP No.4244 of 2017

Amala

... Petitioner

Vs.

Ramar

... Respondent

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw the Matrimonial H.M.O.P.No.51 of 2016 pending on the file of Sub court, Salem and to transfer the Sub Court at Rasipuram.

For Petitioner : Mr.SP.Yuaraj

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the H.M.O.P.No.51 of 2016 pending on the file of Sub court, Salem and to transfer the Sub Court at Rasipuram.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 25.05.2012 as per Hindu rites and customs. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.51 of 2016 on the file of Sub Court, Salem for restitution of conjugal rights.

3. According to the petitioner, she is residing at Rasipuram along with her aged parents and unmarried brother & sister. The distance between Rasipuram and Salem is more than 25 kms. and being a lady, it is very difficult for her to attend each and every hearing before the Sub Court, Salem along with her minor child. She is not having any independent income and is depending on her aged 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. Though notice has been served on the respondent and the name of the respondent has been printed in the cause list on 22.06.2016, there is no representation for the respondent either in person or through counsel. Today also, there is no representation for the respondent.

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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.51 of 2016 filed by the respondent, from the file of Sub Court, Salem, to the file of Sub Court, Rasipuram.

6. 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.51 of 2016 is ordered to be withdrawn from the file of Sub Court, Salem and transferred to the file of Sub Court, Rasipuram. The Presiding Officer, Sub Court, Salem is directed to transmit all the records pertaining to H.M.O.P.No.51 of 2016 to the file of Sub Court, Rasipuram 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/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

rgr

To

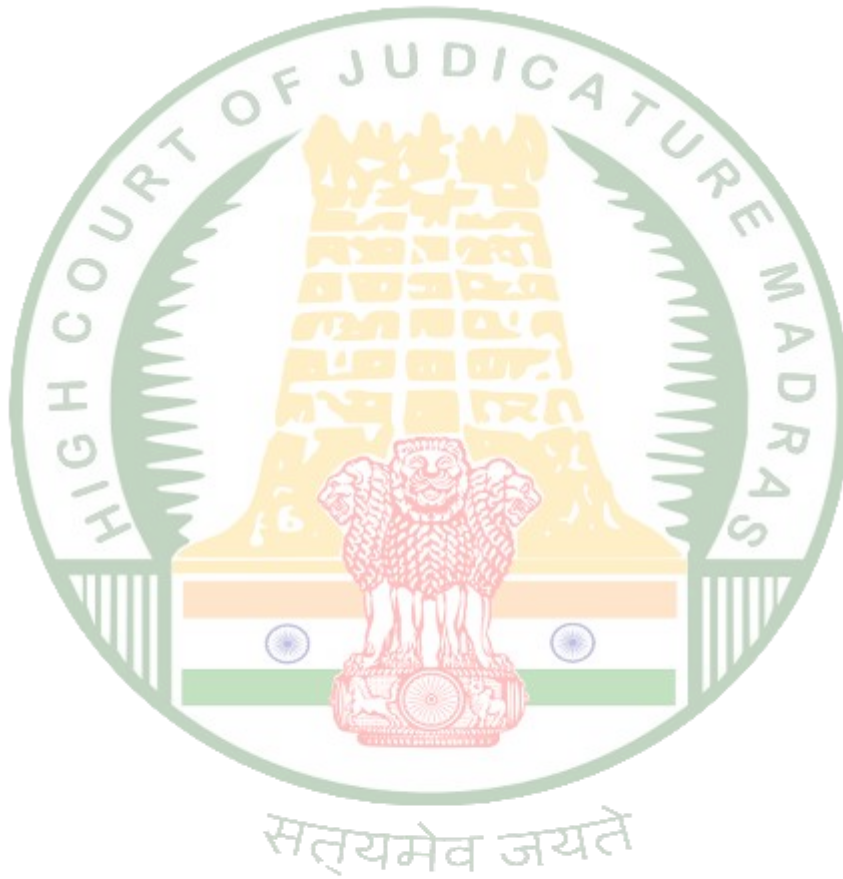
1.The Subordinate Judge,
Salem.

2.The Subordinate Judge,
Rasipuram.

+1cc to Mr.SP.Yuvaraj,Advocate sr.45852

Tr. C.M.P No.232 of 2017

ks (co)
ss(14/7/2017)



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