

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.239 of 2017 &
C.M.P.No.4286 of 2017

Uma Maheswari

... Petitioner

Vs.

Rubakaran

... Respondent

Prayer: Petition has been filed under Section 24 of C.P.C., to withdraw and transfer H.M.O.P. No.72 of 2016 on the file of Sub Court, Sankari to be tried along with H.M.O.P.No.1237 of 2016 on the file of Family Court, Coimbatore.

For Petitioner : Mr.S.Mukunth
For Respondent : Mr.Marudhachalamurthy

O R D E R

This petition has been filed to withdraw the HMOP. No.72 of 2016 on the file of Sub Court, Sankari to be tried along with HMOP.No.1237 of 2016 on the file of the Family Court, Coimbatore.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. The learned counsel appearing for the petitioner submitted that the petitioner-wife has filed a petition in HMOP. NO.1237 of 2016 before the Family Court, Coimbatore, seeking dissolution of marriage. The respondent-husband has filed a petition in HMOP.No.72 of 2016 pending on the file of Sub Court, Sankari for restitution of conjugal rights. Since the issues concerning both the petitions are one and same, the petitioner has prayed for joint trial and hence filed this transfer petition.

4.The learned counsel appearing for the respondent has no objection to transfer the HMOP.No.72 of 2016 pending on the file Sub Court, Sankari, to be tried along with HMOP. No.1237 of 2016 on the file of the Family Court, Coimbatore. It is submitted that the respondent is doing a small scale business and he is solely depending on the income arrived out of it. Therefore, it would be difficult for him to attend the Court on each and every hearings and hence, he prays for dispensing with the personal

appearance of the respondent before the Family Court, Coimbatore on all the hearings.

5. It is seen that the petition in HMOP.No.1237 of 2016 filed by the petitioner and HMOP.No.72 of 2016 filed by the respondent are pending before two different Courts. The petitioner is seeking dissolution of marriage, while the respondent has filed the petition for restitution of conjugal rights.

6. Recording the submission made by the learned counsel for the respondent, and taking into consideration the convenience of both parties and to avoid conflicting decisions, this Court is of the view that the petition in HMOP.No.72 of 2016 filed by the respondent pending on the file of Sub Court, Sankari and HMOP.No.1237 of 2016 filed by the petitioner before the Family Court, Coimbatore, are ordered to be withdrawn from their respective files and are transferred to the file of Principal Sub Court, Coimbatore, in the interest of justice. It would be appreciated that if the case is transferred to Principal Sub Court, Coimbatore, the personal appearance of the parties may be dispensed with for each and every hearings in the HMOP proceedings and can prosecute the case through their counsels. The Courts concerned are directed to transmit the records of the aforesaid HMOPs pending on its file to the Principal Sub Court, Coimbatore within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the learned Principal Sub Court, Coimbatore is directed to conduct joint trial of the cases and dispose of the same, as expeditiously as possible, within a period of four months from the date of receipt of a copy of this Court.

7. Though the personal appearance of the parties are dispensed with, the parties are directed to appear before the Principal Sub Court, Coimbatore, for recording their evidence during trial and as and when they are required by the learned trial Judge, and if necessary for conciliation before the trial Court.

With the above directions, this transfer petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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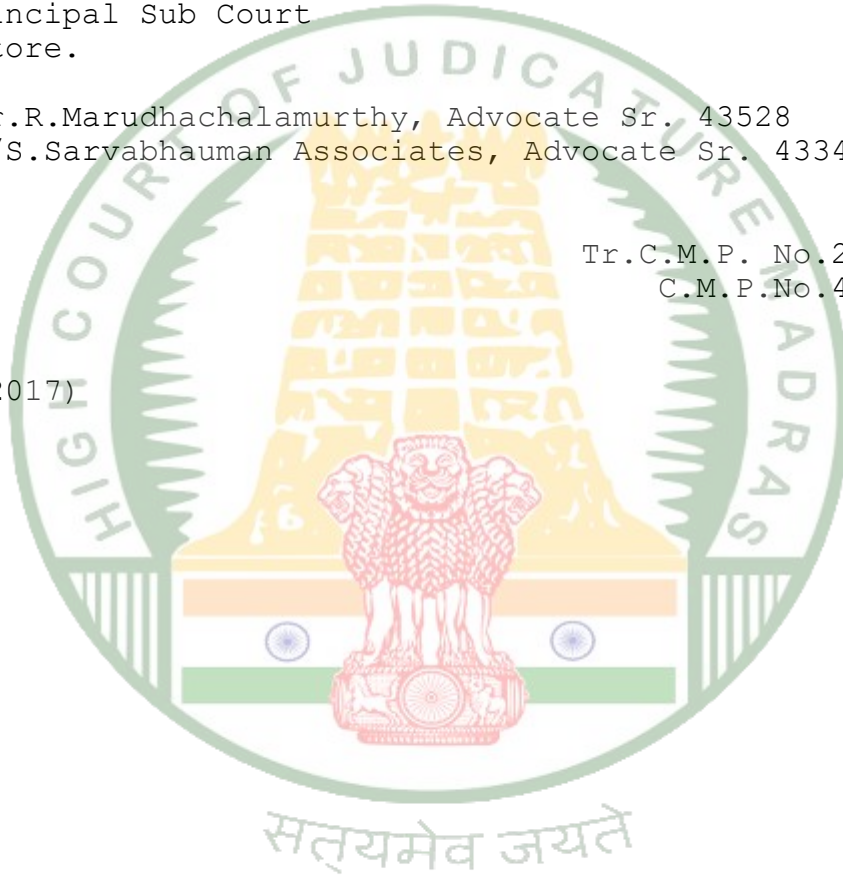
To

1. The Sub Court,
Sankari.
2. The Family Court,
Coimbatore.
3. The Principal Sub Court
Coimbatore.

+1cc to Mr.R.Marudhachalamurthy, Advocate Sr. 43528
+1cc to M/S.Sarvabhauman Associates, Advocate Sr. 43348

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LRS (CO)
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