

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.4.2017

CORAM

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

Tr.C.M.P.No.265 of 2017
and
C.M.P.No.5009 of 2017

N.Fathima Chandini

... Petitioner

Vs.

V.K.Uzair Ahmed

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the O.S.No.46 of 2016 from the file of the Additional Munsif Court, Vaniyambadi and transfer the same to the file of the 1st Additional Family Court, Chennai to be tried along with M.C.No.77 of 2017.

For Petitioner : Mr.M.Fazulul Haq

For Respondent : No appearance

ORDER

This petition has been filed by the petitioner/wife to withdraw O.S.No.46 of 2016 from the file of the Additional Munsif Court, Vaniyambadi and transfer the same to the file of the 1st Additional Family Court, Chennai to be tried along with M.C.No.77 of 2017.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 24.09.2011 at Chennai. After the marriage, both the petitioner and the respondent were residing together in the matrimonial home at Chennai. A male child was born in the wedlock, on 19.8.2012. Due to difference of opinion the petitioner and the respondent were living separately. While so, the respondent filed O.S.No.46 of 2016 before the Additional Munsif Court, Vaniyambadi for restitution of conjugal rights. The petitioner filed M.C.No.77 of 2017 against the respondent for maintenance before the I Additional Family Court, Chennai.

3. According to the petitioner, the respondent is permanently residing at Chennai and carrying on business at

Chennai. Only to harass the petitioner, the respondent has filed the petition before the learned Additional District Munsif Court, Vaniyambadi which has no jurisdiction to decide the issue. The petitioner is also residing at Chennai. The distance between Vaniyambadi and Chennai is more than 200 kilometers and being a lady, it is very difficult for her to travel from Chennai to Vaniyambadi to attend each and every hearing before the Additional District Munsif Court, Vaniyambadi. Further, the respondent is regularly appearing before the 1st Additional Family Court, Chennai in M.C.No.77 of 2017 filed by the petitioner for maintenance.

4. In the circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to withdraw O.S.No.46 of 2016 from the file of the Additional Munsif Court, Vaniyambadi and transfer the same to the file of the 1st Additional Family Court, Chennai to be tried along with M.C.No.77 of 2017.

5. Though notice is served on the respondent and his name has also been printed in the cause list, there is no representation by the respondent either in person or through his 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].

7. Considering the facts and circumstances, this Transfer Civil Miscellaneous Petition is disposed of and O.S.No.46 of 2016 pending on the file of Additional Munsif Court, Vaniyambadi, is hereby withdrawn and transferred to the file of the 1st Additional Family Court, Chennai to be tried along with M.C.No.77 of 2017. The learned Additional Munsif, Vaniyambadi, is directed to send the case bundles to the 1st Additional Family Court, Chennai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

kua

Sub Assistant Registrar

To

1.The 1st Additional Judge,
Family Court,
Chennai

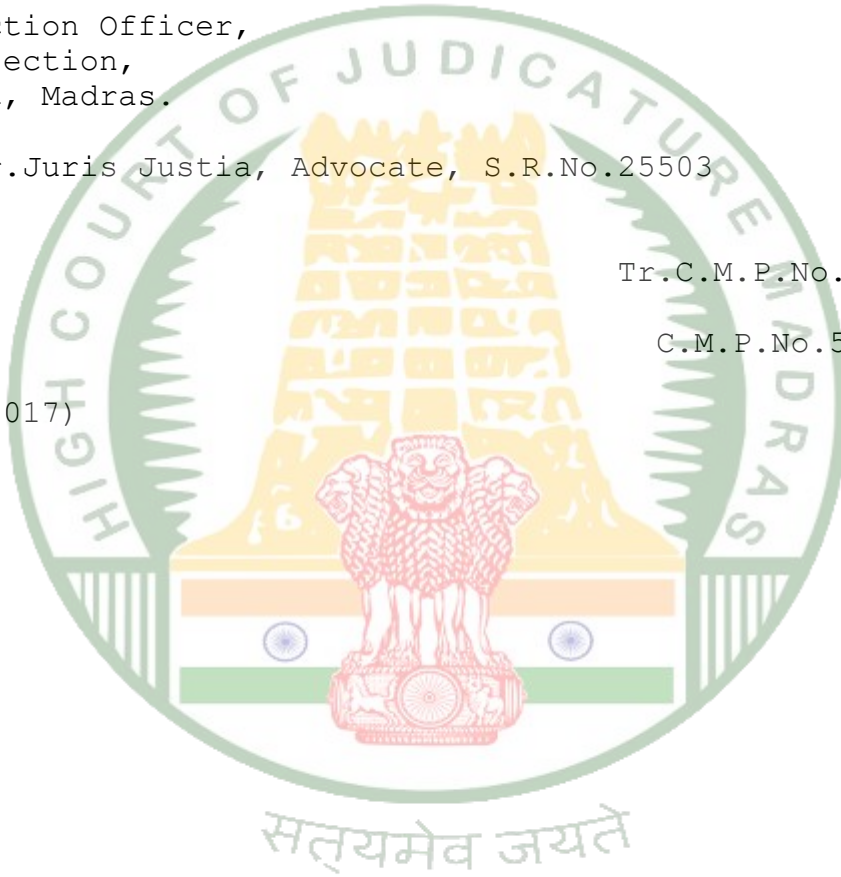
2.The Additional Munsif Court,
Vaniyambadi

3. The Section Officer,
Judicial Section,
High Court, Madras.

+2cc to Mr.Juris Justia, Advocate, S.R.No.25503

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VD(CO)
RS(19/05/2017)



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