

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No 266 of 2017
and CMP No.5052 of 2017

S. Shanmugavalli @ Chitra ... Petitioner

Vs.

K. Sivakumar Respondent

Prayer:- Petition has been filed under Section 124 of C.P.C., to withdraw and transfer the divorce petition H.M.O.P.No.229/2016 on the file of Sub Court, Kanchipuram to Family Court at Chennai.

For Petitioner : M/s.J.John Bosco
For Respondent : No appearance.

O R D E R

This petition is filed to withdraw and transfer the divorce petition H.M.O.P.No.229 of 2016 on the file of Sub Court, Kanchipuram to Family Court at Chennai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 09.02.2012 as per Hindu rites and customs. In the wedlock, a male child was born on 23.11.2013. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.229 of 2016 on the file of Sub Court, Kanchipuram for divorce, on the ground of cruelty.

3. According to the petitioner, she is residing at Chennai alongwith her aged parents and minor child. The distance between Chennai and Kanchipuram is more than 50 kms. and being a lady, it is very difficult for her to attend each and every hearing before the Sub Court, Kancheepuram 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 his name 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.229 of 2016 filed by the respondent, from the file of Sub Court, Kanchipuram, to the file of Family Court, Chennai.

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.229 of 2016 is ordered to be withdrawn from the file of Sub Court, Kanchipuram and transferred to the file of Family Court, Chennai. The Presiding Officer, Sub Court, Kanchipuram is directed to transmit all the records pertaining to H.M.O.P.No.229 of 2016 to the file of Family Court, Chennai 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 IV)

/true copy/

Sub Asst. Registrar

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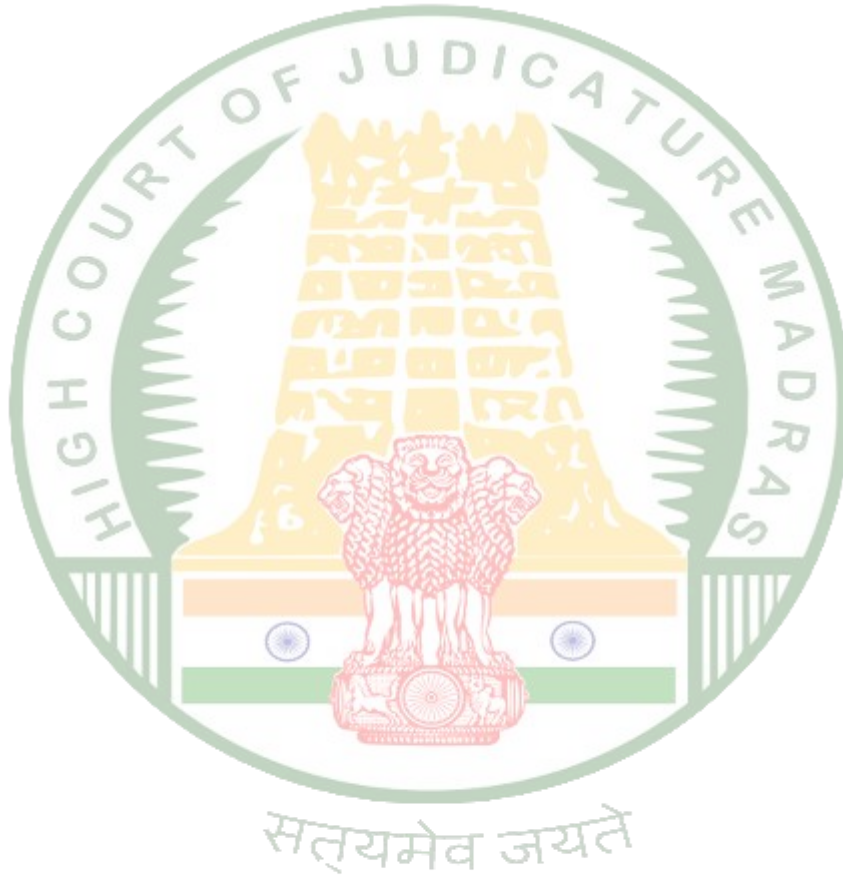
To

1.The Subordinate Judge,
Kanchipuram.

2.The Family Court,
Chennai.

Tr.C.M.P. No.266 of 2017

AR (IV)
VR(14/07/2017)



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