

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.267 of 2017
and C.M.P.No.5053 of 2017

Vijaya Petitioner/Respondent

Vs.

R.Kuppusamy Respondent/Petitioner

Petition filed under Section 24 of Civil Procedure Code, to withdraw the case, in H.M.O.P.No.126 of 2016 from the file of the Sub Court, Kallakurichi and transfer the same to the Sub Court, Athur.

For Petitioner : Mr.G.Anabayachozhan

For Respondent : No appearance

O R D E R

This transfer petition is filed to withdraw the case, in H.M.O.P.No.126 of 2016 from the file of the Sub Court, Kallakurichi and transfer the same to the Sub Court, Athur.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 01.06.2012. In the wedlock, a female child was born on 08.07.2013. Due to difference of opinion, the petitioner and the respondent are living separately. The petitioner has filed M.C.No.7 of 2016 before the Judicial Magistrate No.I, Athur, for maintenance of herself and her child. On receiving the notice, the respondent filed H.M.O.P.No.126 of 2016 before Sub Court, Kallakurichi for divorce against the petitioner on the ground of cruelty.

3. According to the petitioner, she is residing at Athur, alongwith her minor child. It is very difficult for her to travel along with her minor child, for each and every hearing before Sub Court, Kallakurichi. 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. Though notice has been served on the respondent and the respondent had entered appeared through counsel, there is no representation for the respondent either in person or through counsel.

5. 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.126 of 2016 from the file of Sub Court, Kallakurichi to the file of Sub Court, Athur.

6. Taking into consideration the above facts and for convenience of both parties and to avoid conflicting decisions, the case in H.M.O.P.No.126 of 2016 is ordered to be withdrawn from the file of Sub Court, Kallakurichi and transferred to the file of Sub Court, Athur to be tried along with M.C.No.7 of 2016, pending on its file. The Presiding Officer, Sub Court, Kallakurichi is directed to transmit all the records pertaining to H.M.O.P.No.126 of 2016 to the file of Sub Court, Athur, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rgr/gsk

To

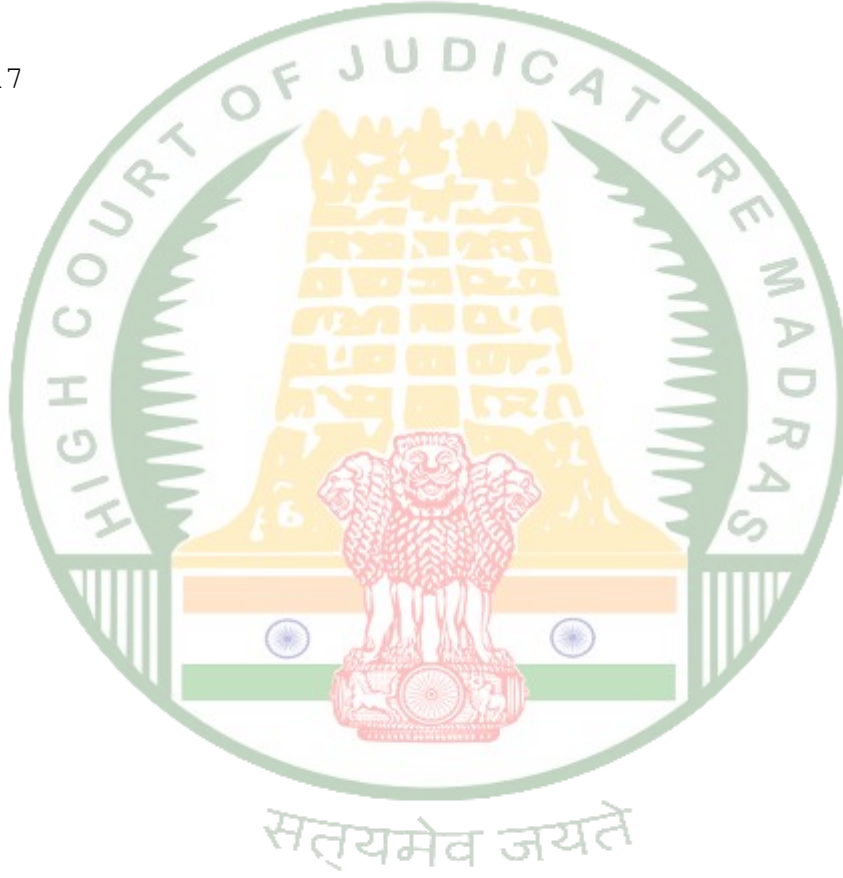
1. The Sub-ordinate Judge,
Kallakurichi.

2. The Sub-ordinate Judge,
Athur.

+1cc to Mr.G.Anabayachozhan, Advocate, S.R.No.43274

Tr.C.M.P.No.267 of 2017

GJII (CO)
CS/25/07/17



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