

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2017

CORAM

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

TR.CMP.No.280 of 2017
and C.M.P.No.5352 of 2017

R.Divya ... Petitioner

Vs

Rajkumar ... Respondent

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.73 of 2015 pending on the file of Subordinate Judge at Sathyamangalam and transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.B.Vijayakumar
For Respondent : Mr.S.Kamadevan

ORDER

The petitioner has filed this transfer petition to withdraw the HMOP.No.73 of 2015 pending on the file of Subordinate Judge at Sathyamangalam and transfer the same to the Family Court, Coimbatore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 29.05.2013 as per Hindu rites and customs. In the wedlock, a female child was born on 25.03.2014. Due to difference of opinion that arose between the petitioner and respondent, they are living separately. The respondent filed a petition in HMOP.No.73 of 2015 for divorce on the file of Sub Court, Sathyamangalam. While so, the petitioner filed a petition in HMOP.No.263 of 2017 for restitution of conjugal rights before the Family Court, Coimbatore. The petitioner has also filed a petition under Domestic Violence Act in D.V.No.1 of 2016 on the file of Judicial Magistrate No.VII, Coimbatore.

3. According to the petitioner, she is residing in her parent's house at Coimbatore along with her minor child. The distance between Sathyamangalam and Coimbatore is around 100 kilometers. Therefore, she finds it difficult to travel such a long distance along with her minor child to attend the Court at

Sathyamangalam. Moreover, her parents are aged and they are not in a position to take care of her minor child during her visit to Sathyamangalam to attend the Court hearings. She is not having any independent income to maintain herself and her minor child and she is depending on her parents for her day to day expenses including travelling expenses. Therefore, she prays for transfer of HMOP.No.73 of 2015 from the file of Subordinate Court, Sathyamangalam to the file of Family Court, Coimbatore and to try along with H.M.O.P.No.263 of 2017 pending before the Family Court, Coimbatore.

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

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].

6. Having regard to the submissions made by the learned counsel for the petitioner and also considering the convenience of the parties, the petition in HMOP.No.73 of 2015 is ordered to be withdrawn from the file of Subordinate Court, Sathyamangalam and transferred to the file of the Family Court, Coimbatore and to be tried along with H.M.O.P.No.263 of 2017 pending on its file. Further, in order to avoid conflicting decisions, it would be appropriate if both the petitions in HMOP.No.73 of 2015 pending on the file of the Subordinate Court, Sathyamangalam and HMOP.No.263 of 2017 pending on the file of Family Court, Coimbatore are to be tried together in the same Court, for joint trial. The Subordinate Court, Sathyamangalam is directed to transmit all the records pertaining to HMOP.No.73 of 2015 to the file of Family Court, Coimbatore, 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 (CCC)

/true copy/

Sub Asst. Registrar

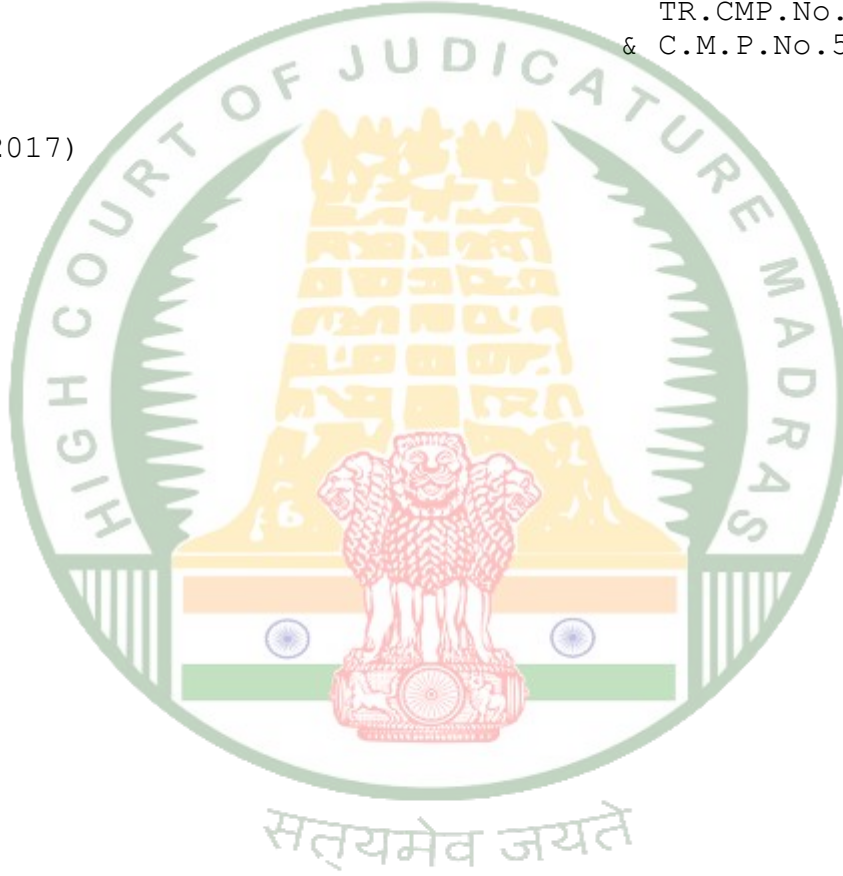
To

1. The Subordinate Judge,
Sathyamangalam
2. The Judge, Family Court,
Coimbatore.

+1cc to Mr.B.Vijayakumar, Advocate Sr. 44335

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RJ(CO)
VR(17/07/2017)



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