

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

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

Tr. C.M.P No.317 of 2017
& C.M.P.No.5990 of 2017

T.N.Gowri Manokari

...

Petitioner

Vs.

R.Saravana

....

Respondent

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw the petition in H.M.O.P.No.91 of 2017 from the file of Family Court, Coimbatore and to transfer the same to Sub Court, Ooty.

For Petitioner : Mr.J.Franklin

Fro Respondent : Mr.R.Rajiv Gandhi

O R D E R

This petition is filed to withdraw the petition in H.M.O.P.No.91 of 2017 from the file of Family Court, Coimbatore and to transfer the same to Sub Court, Ooty.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 01.02.2013 as per Hindu rites and customs. In the wedlock, a male child was born on 31.10.2013. Due to difference of opinion, the petitioner and the respondent are living separately. The petitioner filed DVA No.5 of 2016 before the Judicial Magistrate, Coonoor under Domestic Violence Act and the same is pending. The respondent filed H.M.O.P.No.91 of 2017 before Family Court, Coimbatore for divorce.

3. According to the petitioner, she is residing at Thuthurmattam, Nilgiris District alongwith her parents. The distance between Coimbatore and Thuthumattam is more than 75 kms. and being a lady, it is very difficult for her to attend each and every hearing before the Family Court, Coimbatore 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. Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

5. Though the learned counsel for the respondent took time to file counter, till date no counter has been filed.

6. 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.91 of 2017 pending on the file of Family Court, Coimbatore to Sub Court, Ooty.

7. 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.91 of 2017 is ordered to be withdrawn from the file of Family Court, Coimbatore and transferred to the file of Sub Court, Ooty. The Presiding Officer, Family Court, Coimbatore is directed to transmit all the records pertaining to H.M.O.P.No.91 of 2017 to the file of Sub Court, Ooty within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
सत्यमेव जयते

Assistant Registrar(CS V)

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Sub Assistant Registrar

rgr

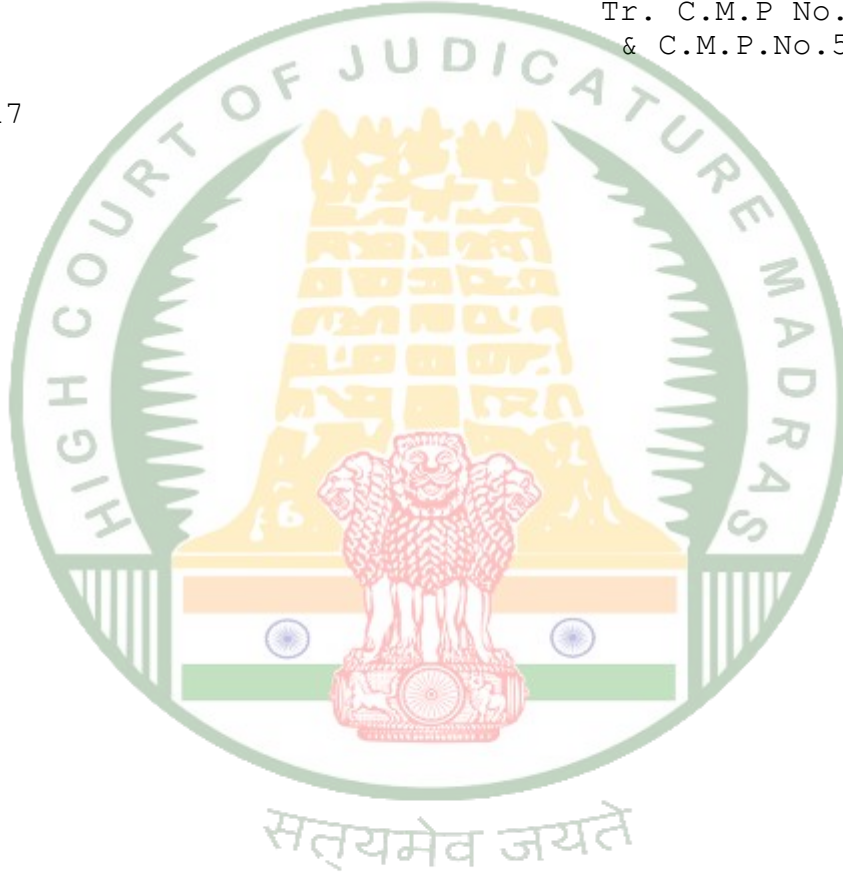
To

1. The Family Court,
Coimbatore.
2. The Subordinate Court,
Ooty.

+lcc to Mr.J.Franklin, Advocate, S.R.No.

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CS/12/07/17



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