

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.Nos.35 and 344 of 2017
and
C.M.P.Nos.910 and 6753 of 2017

R.Purushothaman ... Petitioner in Tr.C.M.P.35/2017
/Respondent
B.Jeeva ... Petitioner in Tr.C.M.P.344/2017
/Respondent

Vs.

B.Jeeva ... Respondent in Tr.C.M.P.35/2017
/Petitioner
R.Purushothaman ... Respondent in Tr.C.M.P.344/2017
/Petitioner

Prayer in Tr.C.M.P.No.35/2017:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.305 of 2015 from the file of the Family Court, Erode and transfer the same to the Sub-Court, Udumalpet, to try along with H.M.O.P.No.62 of 2015 on the file of the Sub-Court, Udumalpet.

Prayer in Tr.C.M.P.No.344/2017:- Petition has been filed under Section 24 of C.P.C., to withdraw the case in H.M.O.P.No.62 of 2015 pending on the file of the Sub-Court, Udumalpet and transfer the same to any other appropriate Court at Erode.

In Tr.C.M.P.No.35/2017

For Petitioner : Mr.D.R.Arun Kumar

For Respondent : Mr.N.Umapathi

In Tr.C.M.P.No.344/2017

For Petitioner : Mr.N.Umapathi

For Respondent : Mr.D.R.Arun Kumar

COMMON ORDER

Tr.C.M.P.No.344 of 2017 is filed by the wife to transfer the H.M.O.P.No.62 of 2015 pending on the file of the Sub-Court, Udumalpet filed by the husband for divorce against the wife to any other appropriate Court at Erode.

2. Tr.C.M.P.No.35 of 2017 is filed by the husband to transfer H.M.O.P.No.305 of 2015 filed by the wife for restitution of conjugal rights from the file of the Family Court, Erode to Sub-Court, Udumalpet, to try along with H.M.O.P.No.62 of 2015.

3. Learned counsel appearing for the wife submitted that the wife is residing at Kodumudi along with her parents and her minor child and she is not having any independent income to maintain herself and her minor child. The distance between Kodumudi and Udumalpet is more than 120 kilometers and hence, it is very difficult for her to travel from Kodumudi to Udumalpet to attend the hearing. Therefore, she prays for transfer of H.M.O.P.No.62 of 2015 pending on the file of the Sub-Court, Udumalpet to any other appropriate Court at Erode.

4. Learned counsel appearing for the husband submitted that the husband is not in India and he is in Singapore and therefore it is very difficult for him to appear before the Court proceedings at Erode.

5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

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. Having regard to the submissions made by the learned counsel for the wife along with the above decision, the petition in H.M.O.P.No.62 of 2015 is ordered to be withdrawn from the file of the Sub-Court, Udumalpet, and transferred to the file of the Family Court, Erode, to be tried along with H.M.O.P.No.305 of 2015 pending on its file. The Presiding Officer, Sub-Court, Udumalpet, is directed to transmit all the records pertaining to H.M.O.P.No.62 of 2015 to the file of the Family Court, Erode, within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, both these Transfer Civil Miscellaneous petitions are ordered. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

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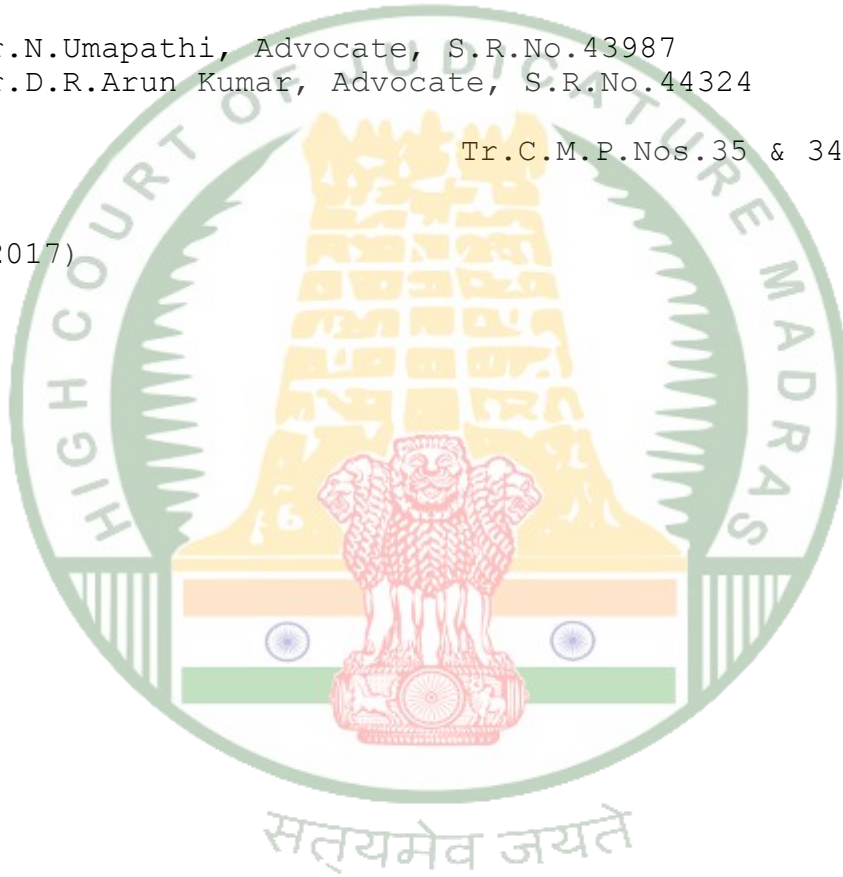
1. The Presiding Officer,
Family Court,
Erode.
2. The Subordinate Judge,
Udumalpet.

+1cc to Mr.N.Umapathi, Advocate, S.R.No.43987

+1cc to Mr.D.R.Arun Kumar, Advocate, S.R.No.44324

Tr.C.M.P.Nos.35 & 344 of 2017

GJ II(CO)
CA(11/07/2017)



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