

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.362 of 2017

M.Srimathi @ Managalambika ... Petitioner/Respondent

Vs.

S.Mohanvel ... Respondent/Petitioner

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw the case in H.M.O.P.No.62 of 2015 pending on the file of the Sub-Court at Sathiyamangalam and transfer the same to the Family Court at Coimbatore.

For Petitioner : Mr.R.Balaji Singh

For Respondent : No appearance

O R D E R

This petition is filed to withdraw the case in H.M.O.P.No.62 of 2015 pending on the file of the Sub-Court at Sathiyamangalam and transfer the same to the Family Court at Coimbatore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 09.09.2013 as per Hindu rites and customs. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.62 of 2015 on the file of Sub Court, Sathiyamangalam for divorce. The petitioner also filed H.M.O.P No.962 of 2016 on the file of Additional Family Court, Coimbatore for restitution of conjugal rights.

3. According to the petitioner, she is residing at Coimbatore alongwith her aged parents and sister. The distance between Coimbatore and Sathiyamangalam is more than 60 kms. and being a lady, it is very difficult for her to attend each and every hearing before the Sub Court, Sathiyamangalam. She is not having any independent income and is depending on her aged parents and sister 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 name of the respondent 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.62 of 2015 filed by the respondent, from the file of Sub Court, Sathiyamangalam, to the file of Additional Family Court, Coimbatore where H.M.O.P No.962 of 2016 filed by the petitioner is pending.

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.62 of 2015 is ordered to be withdrawn from the file of Sub Court, Sathiyamangalam and transferred to the file of Additional Family Court, Coimbatore where H.M.O.P No.962 of 2016 filed by the petitioner is pending. The Presiding Officer, Sub Court, Sathiyamangalam is directed to transmit all the records pertaining to H.M.O.P.No.62 of 2015 to the file of Additional Family Court, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the Presiding Officer, Additional Family Court, Coimbatore is directed to dispose of both HMOP Nos.62 of 2015 & 962 of 2016, as expeditiously as possible, in any event, not later than six (6) months from the date of receipt of case bundles from the concerned court.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rgr

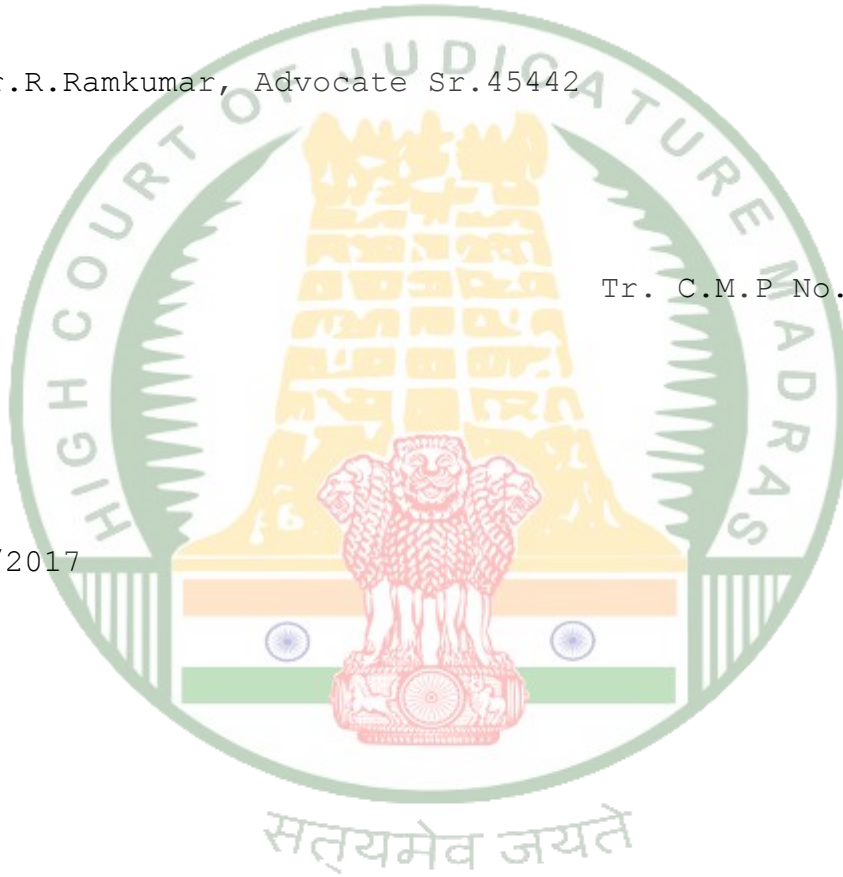
To

1. The Subordinate Judge,
Sathiyamangalam.
2. The Judge,
The Additional Family Court,
Coimbatore.

+2cc to Mr.R.Ramkumar, Advocate Sr.45442

Tr. C.M.P No.362 of 2017

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srg 14/07/2017



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