

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.388 of 2017
& C.M.P.No.7782 of 2017

Sumithra ... Petitioner/Respondent

Vs.

Vimalraj ... Respondent/Petitioner

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the case in H.M.O.P.No. 289 of 2016 from the file of the Learned Subordinate Judge at Poonamallee, to the file of Learned Subordinate Court at Chidambaram.

For Petitioner : Mr.C.Srinivasan

For Respondent : Mr.N.Shanmugha Sundaram
for Mr.K.Ilayaraja

O R D E R

This petition is filed to withdraw and transfer the case in H.M.O.P.No. 289 of 2016 from the file of the Learned Subordinate Judge at Poonamallee, to the file of Sub Court, Chidambaram.

2. The petitioner is the wife and respondent is the husband. In the wedlock, two female children were born. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P No.289 of 2016 on the file of Sub Court, Poonamallee for divorce.

3. According to the petitioner, she is residing at Cuddalore alongwith her parents. The distance between Cuddalore and Poonamallee is 185 kms. and being a lady, it is very difficult for her to attend each and every hearing before Sub Court, Poonamallee. 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. Heard the learned counsel for the petitioner, respondent and perused the materials available on record.

5. Though the learned counsel for the respondent took time for filing counter, no counter has been filed till now. The learned counsel strongly objected for transfer of H.M.O.P.No.289 of 2016 from the file of the Sub-Court, Poonamallee to Sub Court, Chidambaram.

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.289 of 2016 filed by the respondent, from the file of Sub Court, Poonamallee, to the file of Sub Court, Chidambaram.

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.289 of 2016 is ordered to be withdrawn from the file of Sub Court, Poonamallee and transferred to the file of the Sub Court, Chidambaram. The Presiding Officer, Sub Court, Poonamallee is directed to transmit all the records pertaining to H.M.O.P.No.289 of 2016 to the file of the Sub Court, 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/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rgr

To

1.The Subordinate Judge,
Poonamallee.

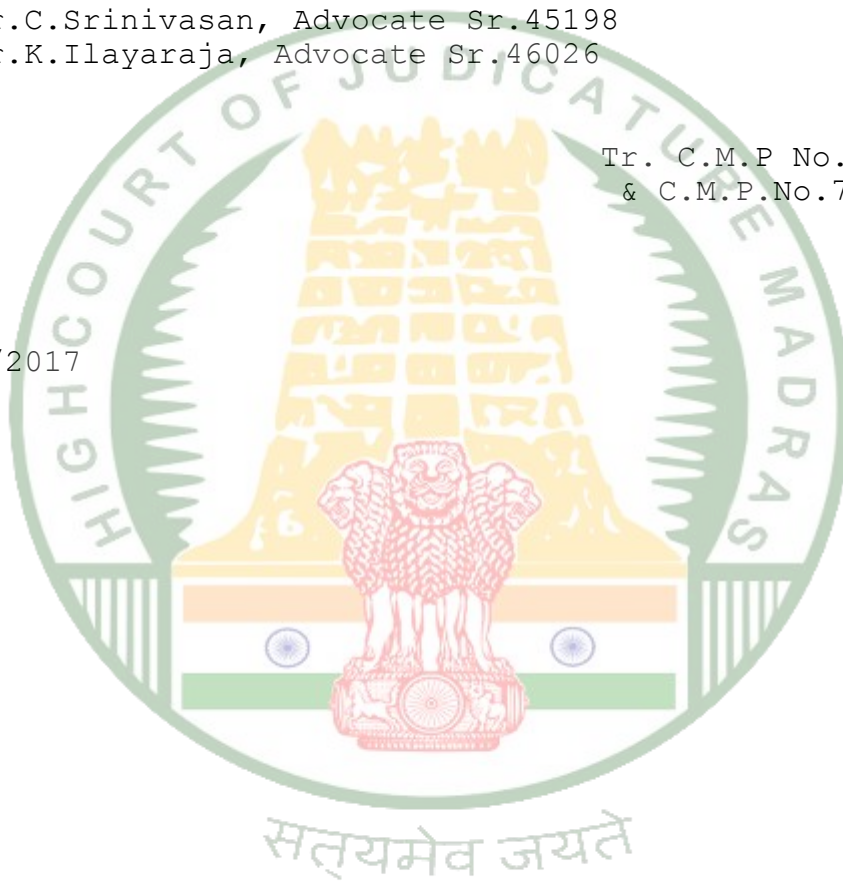
2.The Subordinate Judge,
Chidambaram.

+1cc to Mr.C.Srinivasan, Advocate Sr.45198

+1cc to Mr.K.Ilayaraja, Advocate Sr.46026

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srg 14/07/2017



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