

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.519 of 2017
and
C.M.P.No.10720 of 2017

M.Thenmozhi

...Petitioner

Versus

R.Sivamanickam

...Respondent

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw F.C.O.P No.1003 of 2017 from the file of Principal Family Court, Chennai and to transfer the same to the file of Sub Court, Krishnagiri to be tried along with HMOP No.45 of 2017.

For Petitioner : Mr.V.Sekar
For Respondent : Mr.A.M.Venkatakrisnan

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw FCOP No.1003 of 2017, filed by the respondent/husband from the file of Principal Family Court, Chennai and transfer the same to the file of Subordinate Court, Krishnagiri to be tried along with H.M.O.P.No.45 of 2017, filed by the petitioner/wife.

2. Heard both sides.

3. Admittedly, the wife has delivered a child very recently i.e. three months ago and she is residing in her native place Kirshnagiri. She has taken special order from the employer to work from home. In such situation, it is stated that she will not be in a position to travel to Chennai Family Court from Krishnagiri. It is seen that H.M.O.P.No.45 of 2017 was filed by the wife for restitution of conjugal rights before the Subordinate Court, Krishnagiri and the same is pending and the respondent/husband has been attending the same. The respondent/husband does not file any transfer petition or stated any difficulty in attending the hearing before the Subordinate Court, Krishnagiri and the transfer is sought for by the petitioner/wife on the ground of inconvenience to travel.

4. The learned counsel for the respondent contended that he has been facing threats at the hands of the petitioner while going to Krishnagiri to attend the hearings and therefore he seeks for transfer of both O.P.'s to any of the Subordinate Courts which is convenient to the wife other than Subordinate Court, Krishnagiri.

5. Considering the submissions made by the learned counsel appearing on either side, and the fact that Section 19(iii-a) of the Hindu Marriage Act, gives preference for the wife in respect of the place where she resides, this Court deems it fit to transfer F.C.O.P.No.1003 of 2017, pending from the file of Principal Family Court, Chennai to Subordinate Court, Tirupattur.

6. Accordingly, this petition is allowed and the proceedings pending in F.C.O.P.No.1003 of 2017, pending on the file of Principal Family Court, Chennai is withdrawn and transferred to the file of Subordinate Court, Tirupattur. No costs. Consequently, connected Miscellaneous Petition is closed.

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30.11.2017

This Matter having been listed under the caption for 'being Mentioned' on 17.01.2018 pursuant to the order of this court dated 30.11.2017 and made herein in the presence of the aforesaid counsels on the eitherside, the court made the following order:

The matter is posted today before this Court under the caption 'for being mentioned'.

2. Originally, the transfer petition was filed for withdrawing F.C.O.P.No.1003 of 2017 from the file of the Principal Family Court, Chennai and to transfer the same to the file of the Sub Court, Krishnagiri and to be tried along with H.M.O.P.No.45 of 2017 pending on the file of the Sub Court, Krishnagiri.

3. While allowing the transfer petition on 30.11.2017, F.C.O.P.No.1003 of 2017 was transferred to the Sub Court, Tirupattur by consent of both the learned counsels. However, it was not brought to the knowledge that connected H.M.O.P.No.45 of 2017 on the file of the Sub Court, Krishnagiri ought to have been transferred along with F.C.O.P.No.1003 of 2017 for joint trial. As it would be appropriate, to have a joint trial to avoid conflict of decisions, if both the O.Ps are tried together before the same Court. Hence, the said H.M.O.P.No.45 of 2017, which is pending on the file of the Sub Court, , Krishnagiri is also transferred to Sub Court, Tirupattur to be tried along with, already transferred F.C.O.P.No.1003 of 2017 from the file of the

Family Court, Chennai.

4. With the above clarification, the earlier order passed by this Court on 30.11.2017 shall remain unaltered.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

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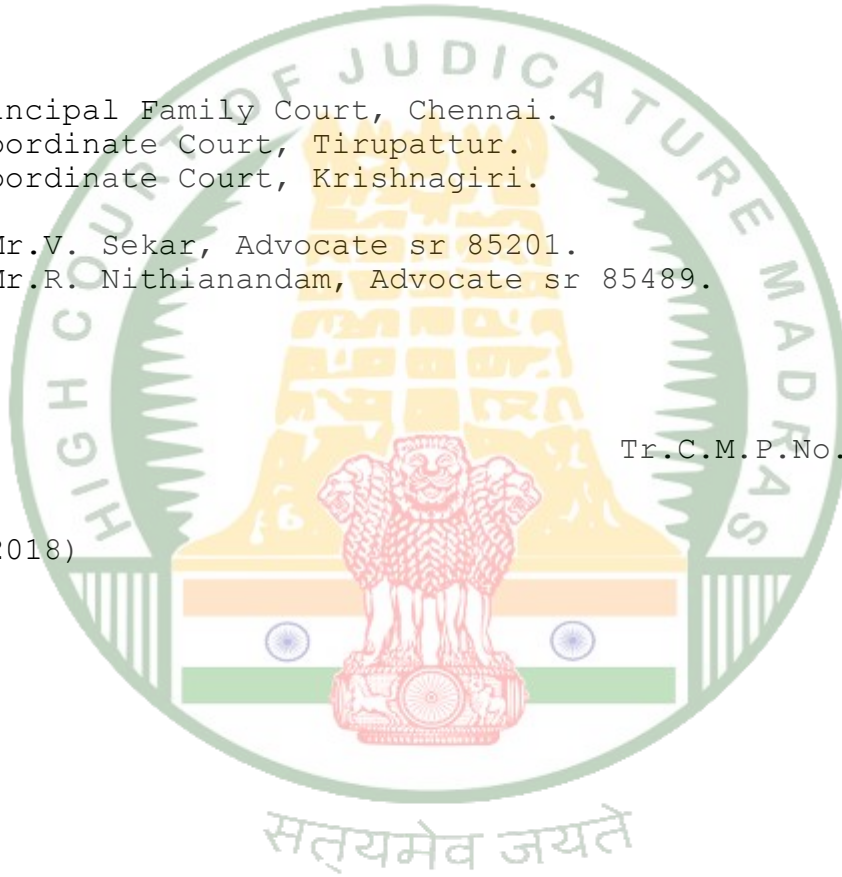
1. The Principal Family Court, Chennai.
2. The Subordinate Court, Tirupattur.
3. The Subordinate Court, Krishnagiri.

+1 CC to Mr.V. Sekar, Advocate sr 85201.

+1 CC to Mr.R. Nithianandam, Advocate sr 85489.

PA (CO)
SP (14/02/2018)

Tr.C.M.P.No.519 of 2017



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