

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.Nos.577 and 589 of 2017
and
CMP.Nos.12310, 12311 and 12134 of 2017

Tr.C.M.P.No.577 of 2017

1. D.Babu
2. D.Uma

...

Petitioners

Versus

1. P.Rajeswari
2. N.Inbasekaran

...

Respondents

Prayer in Tr.C.M.P.No.577 of 2017: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the case in G.W.O.P.No.13 of 2017 on the file of the District and Sessions Judge-II, Kancheepuram and transfer the same to Principal District Judge, Vellore.

For Petitioners : Mr.P.G.Kumaraguru

For Respondents : Mr.R.Prabakaran (R1)
No appearance (R2)

Tr.C.M.P.No.589 of 2017

1. P.Rajeshwari

2. Inbasekaran

...

Petitioners

Versus

1. D.Babu

2. D.Uma

3. D.Neelavathy

4. D.Anbalagan

5. D.Selvaraj

...

Respondents

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the G.W.O.P.No.26 of 2017 from the file of Principal District Judge, Vellore, Vellore District and to transfer the same to the file of District and Sessions Judge No.II, Kanchipuram, Kanchipuram District to try along with G.W.O.P.No.13 of 2017 on the file of District and Sessions Judge, No.II, Kanchipuram.

For Petitioners : Mr.R.Prabakar

For Respondents : Mr.P.Kumaraguru
(R1 to R5)

COMMON ORDER

Tr.C.M.P.No.577 of 2017 has been filed by the paternal uncle of the minor child and his wife, seeking to transfer G.W.O.P.No.13 of 2017, pending on the file of District Sessions Judge-II, Kancheepuram and transfer the same to the Principal District Judge, Vellore, to be tried along with G.W.O.P.NO.26 of 2017.

2. Tr.C.M.P.No.589 of 2017 has been filed by the maternal grand parents of the minor child seeking to transfer G.W.O.P.No.26 of 2017, pending on the file of Principal District Judge, Vellore to the file of District and Sessions Judge No.II, Kanchipuram, Kanchipuram District to try along with G.W.O.P.No.13 of 2017.

3. The custody is with respect to the minor child who had lost his parents in an accident. It is stated that earlier the paternal grand father was appointed as a guardian by the Principal District Judge, Vellore, on 05.11.2016 in G.W.O.P.No.1 of 2016. It is now stated that the said Grand Father is no more. Thereafter, there are two sets of Guardian O.P.'s filed as indicated above one by Maternal grand parents of the minor

child and the other by the paternal uncle and aunt of the minor child were filed.

3. In G.W.O.P.No.13 of 2017, filed before the District and Sessions Judge, II, the maternal grand parents of the minor child asked for a declaration that they are the guardians of the minor and for a liberty to withdraw and invest the deposit of the minor in an appropriate and safe manner, whereas the prayer in the G.W.O.P.No.26 of 2017, filed by the paternal uncle and aunt, before the Principal District Court, Vellore, is to declare the paternal uncle of the minor child and his wife as legal guardians to the minor child and to give liberty to withdraw and invest the deposit of the minor in an appropriate and safe manner.

4. It is also stated that M.C.O.P.Nos.226 and 227 of 2017, pending on the file of Additional District Judge-I, Vellore, in respect to the claim of compensation for the death of the parents of the minor children. As M.C.O.P's are pending before the Additional District Court- I, Vellore and admittedly the minor child is in the custody of the paternal uncle in Vellore, this Court feels it would be appropriate to transfer the matters

to the Court in Vellore. Section 9 in The Guardians and Wards Act, 1890 also empowers the Court to try a matter, within the jurisdictional Court where the minor is residing. Admittedly, the child is residing in Vellore. Considering the same and also in order to avoid conflicting decisions in appointing the guardians for the minor child, it would be appropriate to transfer G.W.O.P.No.13 of 2017, pending on the file of District and Sessions Judge-II, Kancheepuram to the file of Principal District Court, Vellore to be tried along with G.W.O.P.No.26 of 2017.

5. The learned counsel for the maternal grand parents requested that they may be permitted to see the child at the time of hearing the case. It is open to them to take out appropriate application before the Principal District Court, Vellore and the same may be considered by the District Judge.

6. In the result, Tr.C.M.P.No.577 of 2017 is allowed and the proceeding G.W.O.P.No.13 of 2017 pending on the file of District and Sessions Judge-II, Kancheepuram is withdrawn and transferred to the file of Principal District Court, Vellore, to be tried along with G.W.O.P.No.26

PUSHPA SATHYANARAYANA, J

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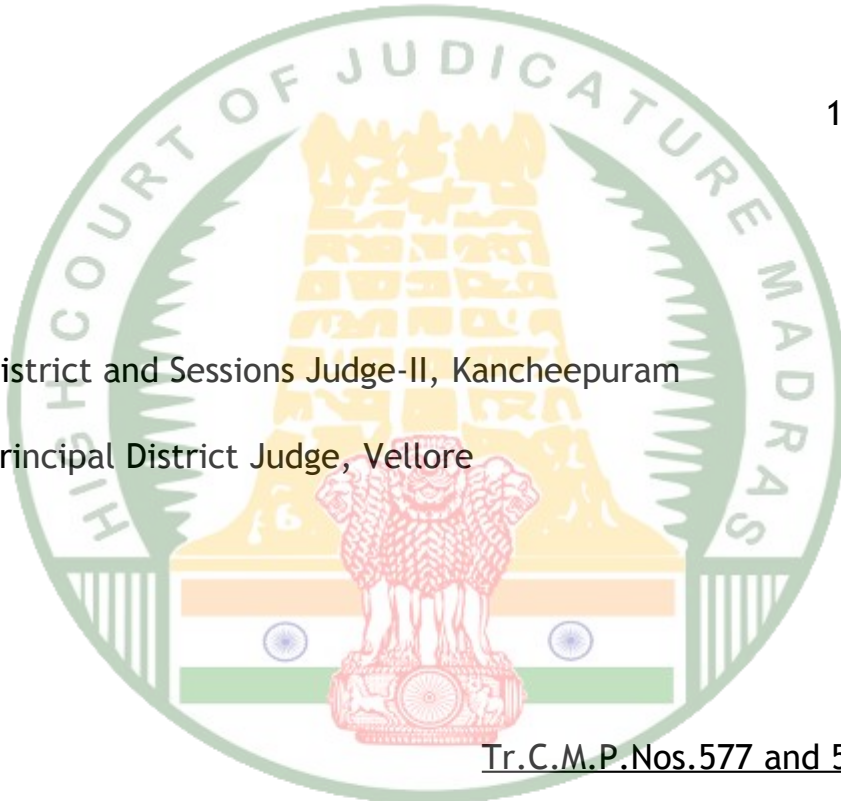
of 2017. Tr.C.M.P.No.589 of 2017 stands dismissed. No costs.
Consequently,connected Miscellaneous Petitions are closed.

15.12.2017

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To

1. The District and Sessions Judge-II, Kancheepuram
2. The Principal District Judge, Vellore

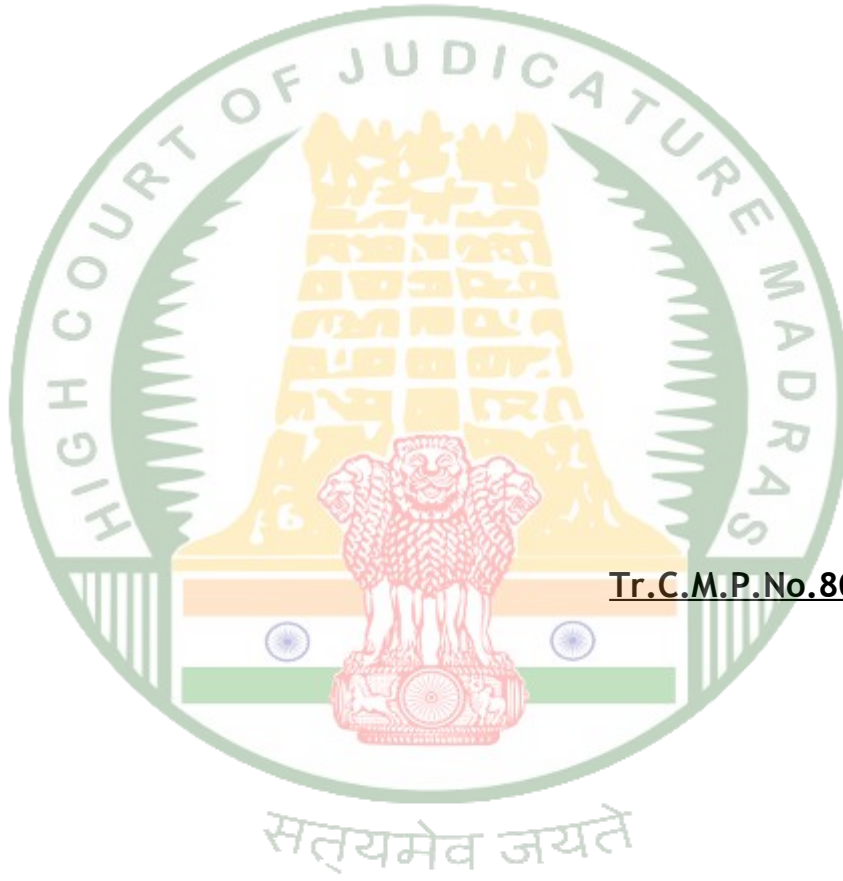


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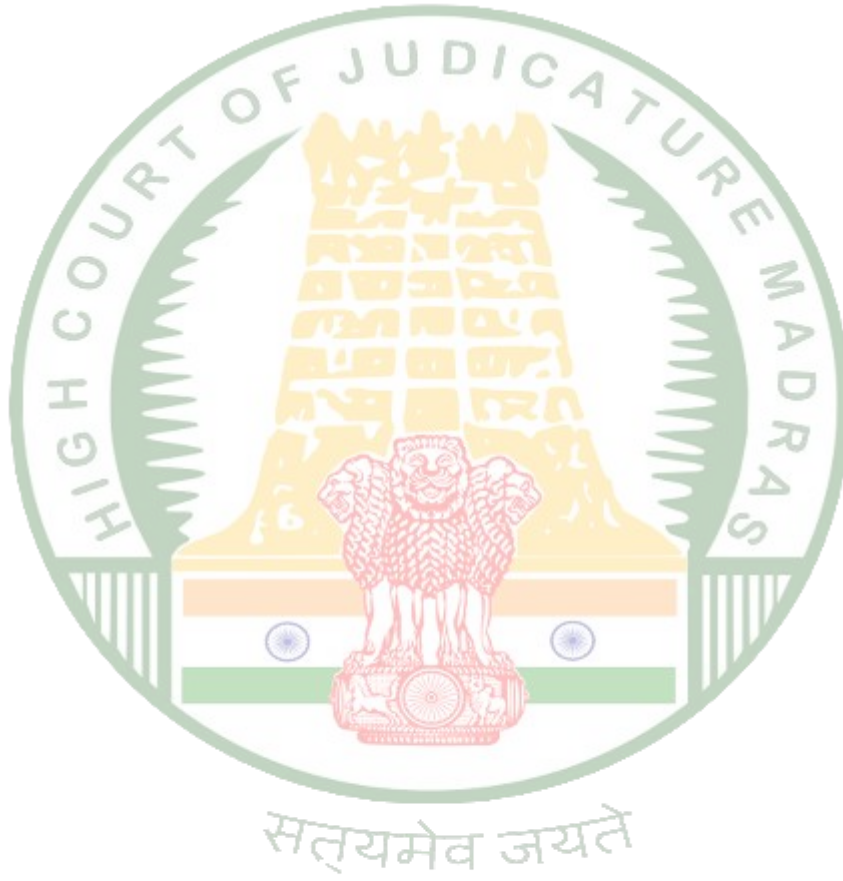
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Tr.C.M.P.No.804 of 2017

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