

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.65 of 2017
and CMP No.1411 of 2017

Sugunavathy

... Petitioner

Vs.

Mr. D.Senthil

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw and transfer the H.M.O.P 126 of 2016 on the file of Family Court Dindigul to the file of Family Court, Salem.

For Petitioner : Mr.J.Milton Arul Rajendiran

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw and transfer the H.M.O.P 126 of 2016 on the file of Family Court Dindigul to the file of Family Court, Salem.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 22.04.2015 as per Hindu rites and customs. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed H.M.O.P.No.126 of 2016 for restitution of conjugal rights, before the file of Family Court, Dindigul. The petitioner also filed F.C.O.P.No.562 of 2016 for divorce, before Family Court, Salem.

3. According to the petitioner, she is residing at Salem alongwith her parents. The distance between Salem and Dindigul is more than 175 kms. and it is very difficult for her to travel from Salem to Dindigul for each and every hearing before Family Court, Dindigul. She is not having any independent income and is depending on her aged 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. Though notice has been served on the respondent and his name 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.126 of 2016 filed by the respondent, from the file of Family Court, Dindigul, to the file of Family Court, Salem where H.M.O.P No.562 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.126 of 2016 is ordered to be withdrawn from the file of Family Court, Dindigul and transferred to the file of Family Court, Salem where H.M.O.P No.562 of 2016 filed by the petitioner is pending. The Presiding Officer, Family Court, Dindigul is directed to transmit all the records pertaining to H.M.O.P.No.126 of 2016 to the file of Family Court, Salem, 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, Family Court, Salem is directed to dispose of both HMOP Nos.126 of 2016 & 562 of 2016, as expeditiously as possible.

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

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

rgr

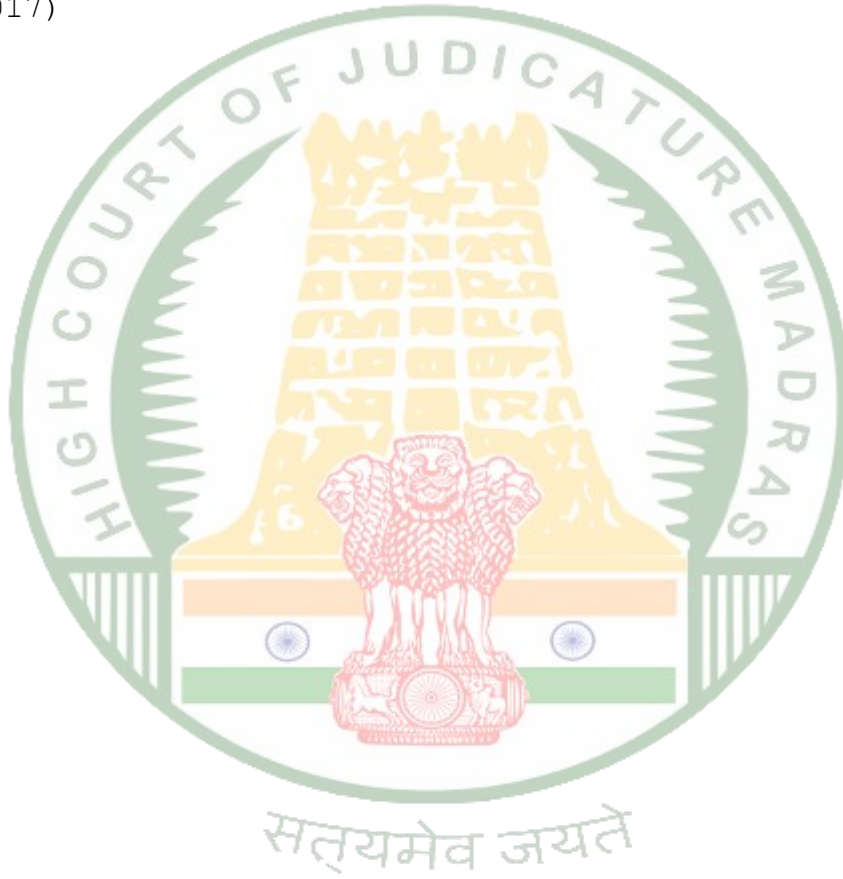
To
1. The Family Court,
Dindigul.

2. The Family Court,
Salem.

+2ccs to Mr.J.Milton Arul Rajendiran,Advocate sr.45383

Tr.C.M.P. No.65 of 2017

sai(co)
ss(14/7/2017)



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