

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.486 of 2015 and 602 of 2017
and M.P.No.1 of 2015

Tr.C.M.P.No.486/2015

S.Ramesh

... Petitioner

Vs.

B.Lakshmi

... Respondent

Tr.C.M.P.No.602/2017

B.Lakshmi

... Petitioner

Vs.

S.Ramesh

... Respondent

Prayer in Tr.C.M.P.No.486/2015: Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.5038 of 2014 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of Subordinate Court, Tambaram to be tried along with H.M.O.P.No.516 of 2014.

Prayer in Tr.C.M.P.No.602/2017: Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.5038 of 2014 pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of Subordinate Court, Pattukottai, Thanjavur District.

(In Tr.C.M.P.No.486/2015)

For Petitioner : M/s.Hemamalini
for Mr.J.Abdul Hadi

For Respondent : Mr.Swarnam J Rajagopalan

(In Tr.C.M.P.No.602/2017)

For Petitioner : Mr.Swarnam J Rajagopalan

For Respondent : No Appearance

COMMON ORDER

The issues and the parties involved in both the Transfer Civil Miscellaneous Petitions are interlinked and therefore, they are disposed of by this common order.

2.Tr.C.M.P.No.602/2017 is filed by the wife to withdraw H.M.O.P.No.5038 of 2014 filed by her, pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of Subordinate Court, Pattukottai, Thanjavur District. According to the petitioner, at the time of filing the said Transfer Civil Miscellaneous Petition, she was staying in Chennai and searching for a job. Now she has shifted her residence to Pattukottai and working in Pioneer Public School (CBSE) as a teacher and residing at D.No.169/19/12, Pranav Apartments, Thendral Nagar, E-Block Backside, Old Housing

Unit, Latchathoppu, Pattukottai – 614 602. The distance between Pattukottai and Chennai is more than 400 kms. Being a lady, it is very difficult for her to attend the proceedings before the I Additional Family Court, Chennai and prayed for Transfer of H.M.O.P.No.5038 of 2014 to the file of the Subordinate Court, Pattukottai, Thanjavur District.

3.Tr.C.M.P.No.486/2015 is filed by the husband to withdraw H.M.O.P.No.5038 of 2014 filed by the wife, pending on the file of the I Additional Family Court, Chennai and transfer the same to the file of Subordinate Court, Tambaram to be tried along with H.M.O.P.No.516 of 2014 filed by him for restitution of conjugal rights. According to the husband, only to drag on the proceedings, the wife has filed Tr.C.M.P.No.602 of 2017 to transfer H.M.O.P.No.5038 of 2014 to the file of the Subordinate Court, Pattukottai, Thanjavur District and if H.M.O.P is transferred to Subordinate Court, Tambaram, it will be convenient for both the husband and wife as the appearance of the parties are not necessary for all the hearings and hence prayed for dismissing Tr.C.M.P.No.602 of 2017 and allowing Tr.C.M.P.No.486 of 2015.

4.The learned counsel appearing for the wife submitted that H.M.O.P.No.516 of 2014 was already decided by the order dated 02.02.2016 and as on date no H.M.O.P is pending before the Subordinate Court, Tambaram. It will be convenient for the wife if H.M.O.P is transferred to Subordinate Court, Pattukottai.

5.Heard the learned counsel for the wife as well as the husband in both the Transfer Civil Miscellaneous Petitions and perused the materials available on record.

6.Considering the above contention of the wife and well settled judicial pronouncement of 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]**, the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

7.Accordingly, this Transfer Civil Miscellaneous Petition in H.M.O.P.No.5038 of 2014 is ordered to be withdrawn from the file of

the I Additional Family Court, Chennai and transferred to the file of the Subordinate Court, Pattukottai, Thanjavur District. The learned I Additional Family Court Judge, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.5038 of 2014 to the file of the Subordinate Court, Pattukottai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Subordinate Judge, Pattukottai, is directed to dispose of H.M.O.P.No.5038 of 2014 as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order.

8. Accordingly, Tr.C.M.P.No.602 of 2017 is ordered and Tr.C.M.P.No.486 of 2015 is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

18.04.2018

gsa

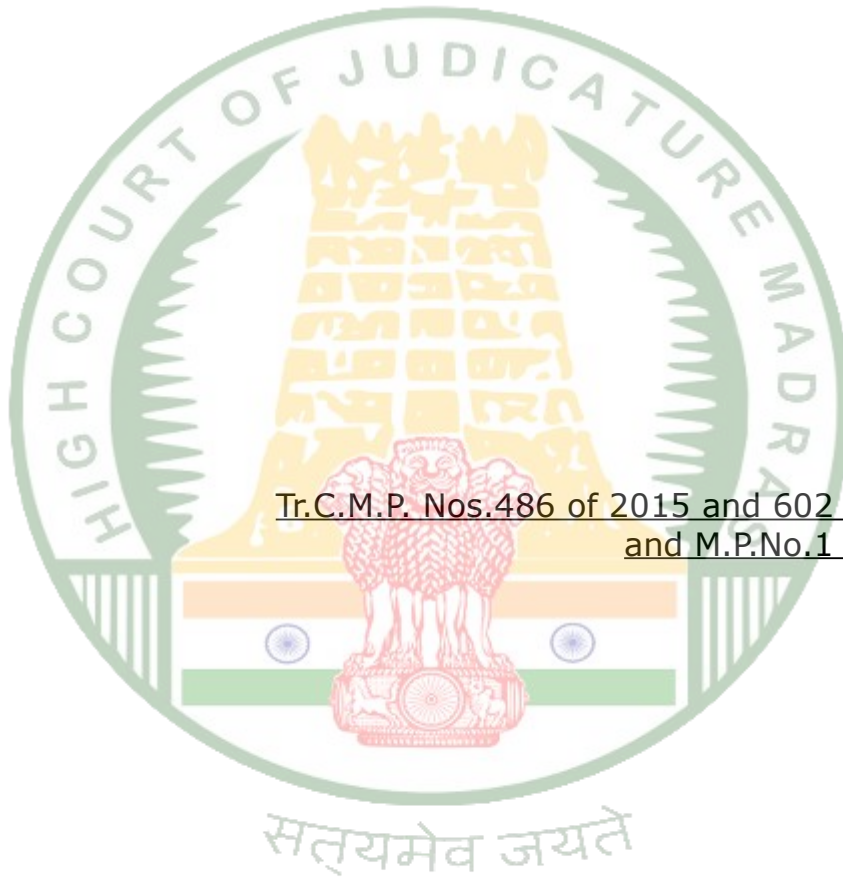
To

1. The I Family Court Judge,
Chennai.
2. The Subordinate Judge,
Pattukottai,
Thanjavur District.

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V.M.VELUMANI,J.

Gsa



Tr.C.M.P. Nos.486 of 2015 and 602 of 2017
and M.P.No.1 of 2015

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