

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.10.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No. 309 and 310 of 2016

Mary Roseline .. Petitioner in both Tr.C.M.Ps

-Vs.-

S.Stephen .. Respondent in both Tr.C.M.Ps

PRAYER in Tr.C.M.P.No.309 of 2016: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw G.W.O.P.No.73 of 2014 on the file of the Addl. District Judge at Kancheepuram and transfer the same to the file of the District Court of Chengalpattu to be tried along with G.W.O.P.No.150 of 2014 pending before the Principal District Court at Chengalpattu.

PRAYER in Tr.C.M.P.No.310 of 2016: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw I.D.O.P.No.6 of 2015 on the file of the Addl. District Judge at Kancheepuram and transfer the same to the file of the Principal District Court, Chengalpattu to be tried along with G.W.O.P.No.150 of 2014 pending before the Principal District Court at Chengalpattu.

For petitioner ... Mr.V.Kannan
in both Tr.C.MPs

For respondent ... No appearance
in both Tr.C.MPs

ORDER

The wife in a matrimonial dispute has filed two transfer civil miscellaneous petitions, namely, Tr.C.M.P.Nos.309 and 310 of 2016.

2. Tr.C.M.P.No.309 of 2016 has been filed seeking to withdraw G.W.O.P.No.73 of 2014 filed by the respondent-husband on the file of the Additional District Court, Kancheepuram and transfer the same to the file of the Principal District Court, Chengalpattu to be tried along with G.W.O.P.No.150 of 2014 filed by the respondent-husband, which is pending before the Principal District Court, Chengalpattu.

3. Tr.C.M.P.No.310 of 2016 has been filed seeking to withdraw I.D.O.P.No.6 of 2015 filed by the respondent-husband on the file of the Additional District Court, Kancheepuram and transfer the same to the file of the Principal District Court, Chengalpattu to be tried along with G.W.O.P.No.150 of 2014 filed by the husband, which is pending before the Principal District Court, Chengalpattu.

4. The respondent-husband has filed I.D.O.P.No.6 of 2015 under

Section 10(x) of the Indian Divorce Act, 1869 before the Additional District Judge, Kancheepuram for dissolution of marriage held between the petitioner and the respondent on 26.11.2007. He has also filed two Guardian Original Petitions in two different Courts. G.W.O.P.No.150 of 2014 is with respect to the custody of the minor, Jessica Stephen, which is filed before the Principal District Court, Chengalpattu. Another G.W.O.P.No.73 of 2014 is filed on the file of the Additional District Court, Kancheepuram with respect to custody of the minor Jedan Stephen.

5. All the three O.Ps are filed by the respondent-husband. As the two minor children were residing at different places, two Guardian O.Ps seem to have been filed. Now, the petitioner-wife is seeking transfer alleging that the District Court, Kancheepuram is nearly 80 kms away from her place of residence at Chennai. Therefore, she wants transfer of I.D.O.P.No.6 of 2015 and G.W.O.P.No.73 of 2014 pending on the file of the Additional District Court, Kancheepuram to the file of the Principal District Court, Chengalpattu to be tried along with G.W.O.P.No.150 of 2014, which is already pending there.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. Though the respondent is served with notice and his name having been printed in the cause list, there is no representation for the respondent either in person or through counsel.

8. During the arguments, the learned counsel for the petitioner submitted that the wife, who is the petitioner herein, is now living in Egmore, Chennai. However, she would not find it difficult to travel from Chennai to District Court, Chengalpet. Hence, all the cases may be clubbed together.

9. Considering the averments made in the affidavit and also the arguments made by the learned counsel for the petitioner-wife, it would be appropriate to transfer all the matters to any one of the Courts to avoid any conflict of decisions. In view of Section 19 (iii-a) of the Hindu Marriage Act, H.M.O.P. may be tried at the place where the wife

resides. In the matrimonial disputes, preference should be given to the convenience of the wife as to the place of hearing. Hence, I am of the view that I.D.O.P.No.6 of 2015 and G.W.O.P.No.73 of 2014 pending on the file of the Additional District Court, Kancheepuram have to be transferred to the file of Principal District Court, Chengalpattu to be tried along with G.W.O.P.No.150 of 2015.

10. Accordingly, these transfer civil miscellaneous petitions are allowed and I.D.O.P.No.6 of 2015 pending on the file of the Additional District Judge, Kancheepuram and G.W.O.P.No.73 of 2014 pending on the file of the Additional District Court, Kancheepuram shall stand withdrawn and transferred to the file of Principal District Court, Chengalpattu to be tried along with G.W.O.P.No.150 of 2014, which is already pending there. No costs.

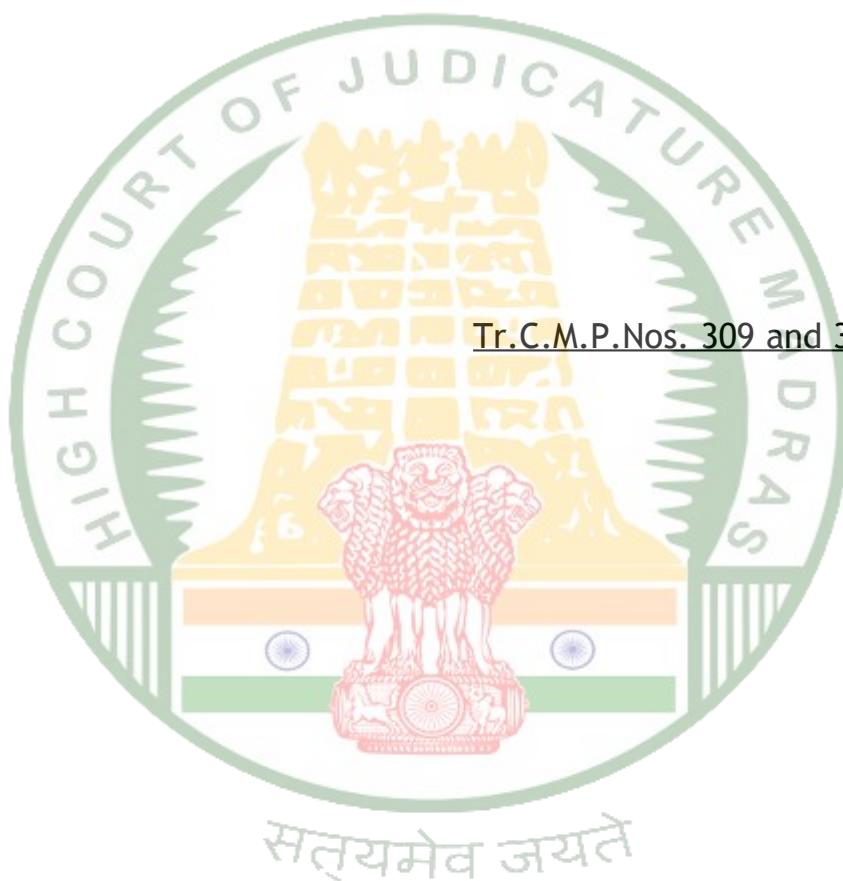
30.10.2017

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To

- 1.The Additional District Judge, Kancheepuram.
- 2.The Principal District Judge, Chengalpattu.

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Tr.C.M.P.Nos. 309 and 310 of 2016

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