

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.343 of 2016
& C.M.P.No.9336 of 2016

V.Maheshwari ... Petitioner/Respondent

Vs.

R.Balakrishnan ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1272 of 2015 on the file of the District Family Court, Coimbatore and the same may be transfer to II Additional Judge Family Court, Chennai and to be tried along with M.C.No.50 of 2016.

For Petitioner : Mr.V.R.Vijaya

For Respondent : Mr.K.A.Ilaya Perumal

O R D E R

The petition is filed to withdraw H.M.O.P.No.1272 of 2015 from the file of the District Family Court, Coimbatore and transfer to the file of the II Additional Judge Family Court, Chennai and to be tried along with M.C.No.50 of 2016.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 19.03.2014 as per Hindu rites and customs. Due to difference of opinion arose between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.1272 of 2015 for divorce on the file of the District Family Court, Coimbatore. The petitioner filed M.C.No.50 of 2016 for claiming maintenance on the file of the II Additional Family Court, Chennai, against the respondent.

3. According to the petitioner, she is residing at Velachery, Chennai. The distance between Chennai and Coimbatore is more than 500 kilometers and being a lady, it is very difficult for her to travel from Chennai to Coimbatore to attend each and every hearing before the District Family Court, Coimbatore. Therefore, she prays for transfer of H.M.O.P.No.1272 of 2015 from the file of the District Family

Court, Coimbatore to the file of the II Additional Judge Family Court, Chennai and to try along with M.C.No.50 of 2016 pending on its file.

4. The learned counsel appearing for the respondent submitted that the respondent is residing in Coimbatore, if transfer petition is ordered it is very difficult for him to attend the Court at Chennai. Therefore, he prays for dismissal of this petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

6. It is well settled law that 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.1272 of 2015 on the file of the District Family Court, Coimbatore, to the file of the II Additional Judge Family Court, Chennai and to try along with M.C.No.50 of 2016 pending on its file.

7. Considering the facts and circumstances of the present case along with the above decision, the petition in H.M.O.P.No.1272 of 2015 is ordered to be withdrawn from the file of the District Family Court, Coimbatore and transferred to the file of the II Additional Judge Family Court, Chennai and to be tried along with MC.No.50 of 2016. The Presiding Officer, District Family Court, Coimbatore, is directed to transmit all the records pertaining to H.M.O.P.No.1272 of 2015 to the file of the II Additional Judge Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

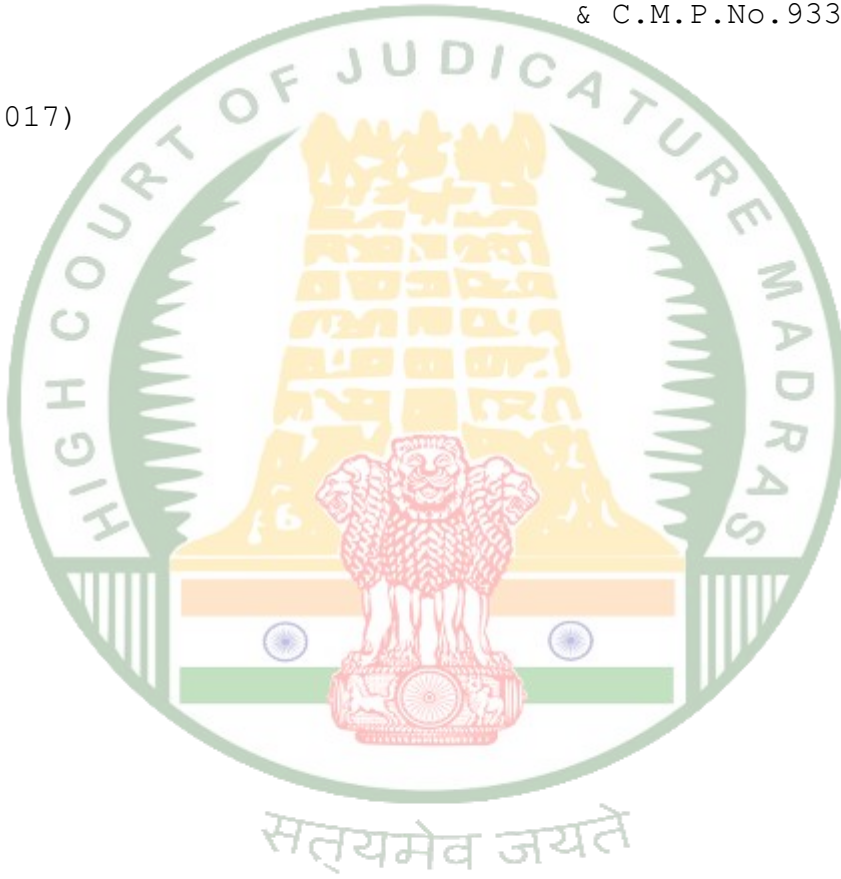
1.The District Judge,
Family Court, Coimbatore.

2.The II Additional Judge,
Family Court, Chennai.

+1cc to M/s.V.R.Vijaya, Advocate SR.No.46060

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