

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM :

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

Tr.CMP.No.466 of 2016
and
C.M.P.No.12816 of 2016

M.Anusuya ... Petitioner/Respondent

Vs.

P.Thangavelu Respondent/Petitioner

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw and transfer HMOP.No.367 of 2015 pending on the file of Sub Court, Poonamallee to be tried along with O.P.No.1442 of 2015 pending on the file of III Additional Family Court at Chennai.

For Petitioner : Mr.S.Chakkaravarthi

For Respondent : Mr.R.Raghavanandan

O R D E R

This petition is filed to withdraw and transfer HMOP.No.367 of 2015 pending on the file of Sub Court, Poonamallee to be tried along with O.P.No.1442 of 2015 pending on the file of III Additional Family Court at Chennai.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 02.7.2014 as per the Hindu rites and customs. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed a petition in HMOP.No.367 of 2017 before the Sub Court, Poonamallee for divorce against the petitioner. The petitioner filed a petition in HMOP.No.1442 of 2015 for restitution of conjugal rights and the same is pending before the III Additional Family Court, Chennai.

3. According to the petitioner, she is employed in Chennai and at present, she is staying at Teynampet in Chennai. She finds it difficult to travel from Chennai to Poonamallee to attend the Court proceedings, besides her official work. The petitioner also stated that she has been put to constant threat by the family members of the respondent in contesting the case before the Court at Poonamallee and

hence she apprehends danger to her life by the family members of the respondent. The petitioner also contends that she has filed a petition in O.P.No.1442 of 2015 before the III Additional Family Court, Chennai for the same cause of action. In the said circumstances, the petitioner has come out with the present transfer petition praying to withdraw and transfer HMOP.No.367 of 2015 pending on the file of Sub Court, Poonamallee to the file of III Additional Family Court at Chennai and to be tried along with O.P.No.1442 of 2015 pending on its file.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

5. 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 HMOP.No.367 of 2015 from the file of Sub Court, Poonamallee to the file of III Additional Family Court, Chennai where O.P.No.1442 of 2015 filed by the petitioner is pending.

6. Taking into consideration the above facts and to avoid conflicting decisions, the petition in HMOP.No.367 of 2015 is ordered to be withdrawn from the file of the Sub Court, Poonamallee and transferred to the file of III Additional Family Court at Chennai, to be tried along with O.P.No.1442 of 2015, pending on the file of III Additional Family Court at Chennai, for joint trial. The Sub Court, Poonamallee, is directed to transmit all the records pertaining to HMOP.No.367 of 2015 to the file of III Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

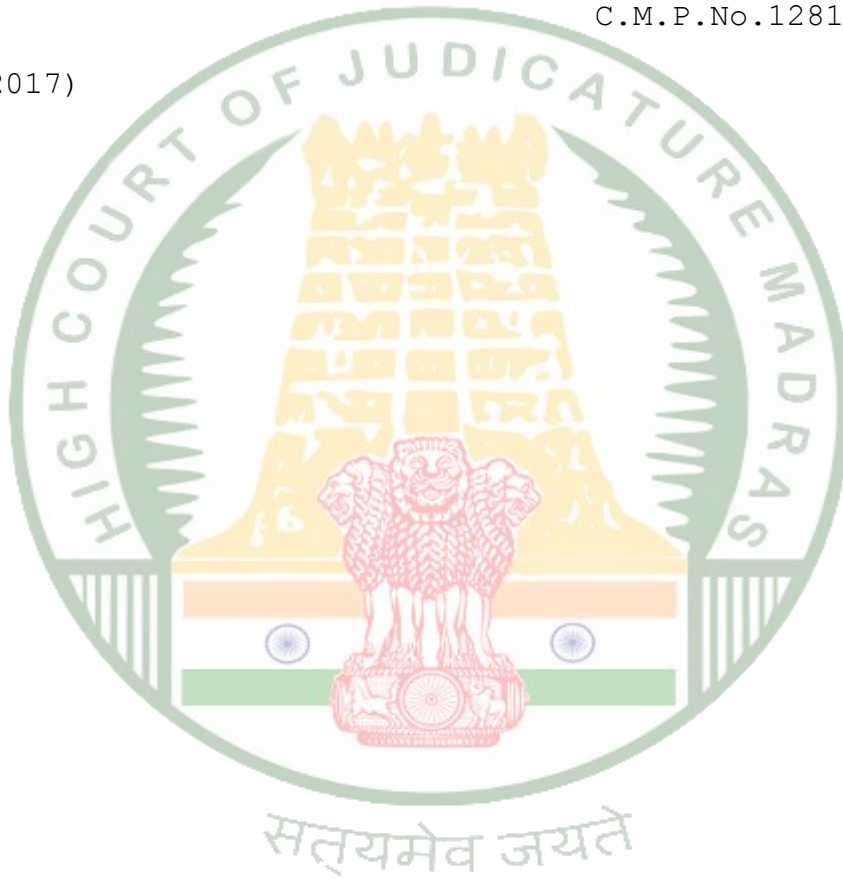
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To

1. The Sub Court
Poonamallee.
2. The Judge,
III Additional Family Court
Chennai.

Tr.C.M.P. No.466 of 2016
and
C.M.P.No.12816 of 2016

NRJK (CO)
CA(03/07/2017)



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