

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.06.2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.669 of 2016
and
CMP.No.17593 of 2016

M.Ishwarya ... Petitioner

Vs

M.S.Prakash ... Respondent

PRAYER: Transfer Petition filed under Section 24 of Civil Procedure Code pleaded to withdraw the case pending on the file of the Additional/Principal Family Court, Chennai in O.P.No.3673 of 2016 and transfer the same to the file of the Sub-Court, Udumalpet, Tiruppur District.

For Petitioner : Mr.N.Umapathi

For Respondent : No appearance

ORDER

This petition is filed to withdraw O.P.No.3673 of 2016 from the file of the Additional/Principal Family Court, Chennai and transfer the same to the file of the Sub-Court, Udumalpet, Tiruppur District.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 29.08.2014 as per Hindu rites and customs. Out of wed-lock, a male child was born to them on 12.09.2015. Due to difference of opinion that arose between the petitioner and respondent, both of them are living separately.

3. The respondent-husband filed O.P.No.3673 of 2016 against the petitioner-wife on the file of Additional/Principal Family Court, Chennai and the said petition is still pending.

4. According to the petitioner, she is residing with her parents at Udumalpet, Tiruppur District, along with her minor child. The distance between Udumalpet and Chennai is more than 500 kms. For the petitioner, being a lady, it is more difficult to travel such a long distance along with minor child to attend the court proceedings before the Family Court at Chennai. Therefore, she prays for transfer of O.P.No.3673 of 2016 on the file of the Additional/Principal Family Court, Chennai to the file of the Sub-Court, Udumalpet, Tiruppur District. She has no independent income and so she is dependent on her parents even for her travel expenses also. In such circumstances, the petitioner has come out with the present petition.

5. Learned counsel for the petitioner has also submitted that the respondent is doing a finance business and his permanent residence is in Otanchattiram in Udumalpet, Tiruppur District. He has filed O.P.No.3673 of 2016 before the Additional/Principal Family Court at Chennai only with an intention to torture her.

6. Though the name of the respondent has been printed in the cause list, there is no representation on behalf of him either in person or through counsel.

7. Heard the learned counsel for the petitioner.

8. 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 on the file of the Additional/Principal Family Court, Chennai in O.P.No.3673 of 2016 and transfer the same to the file of the Sub-Court, Udumalpet, Tiruppur District.

9. Having regard to the submissions made by the learned counsel for the petitioner along with the above decision, the petition in O.P.No.3673 of 2016 is ordered to be withdrawn from the file of the Additional/Principal Family Court, Chennai and transferred to the file of the Sub-Court, Udumalpet, Tiruppur District. The Presiding Officer, Additional/Principal Family Court, Chennai, is directed to transmit all the records pertaining to O.P.No.3673 of 2016 to the file of the Sub-Court, Udumalpet, Tiruppur District, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

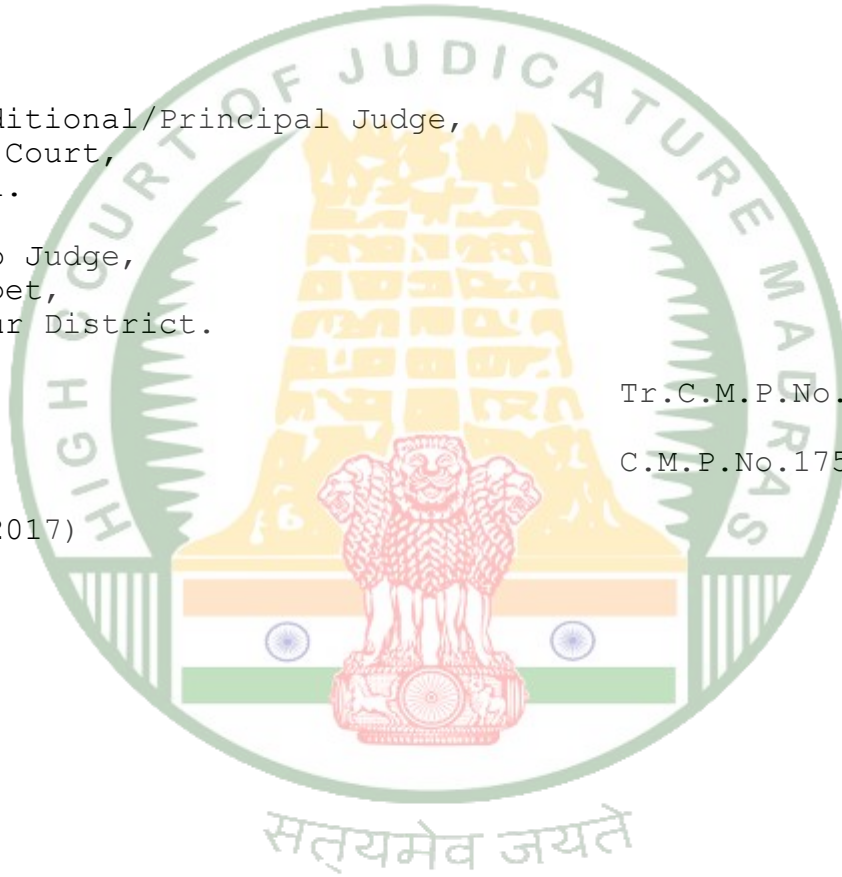
gv

To

1. The Additional/Principal Judge,
Family Court,
Chennai.
2. The Sub Judge,
Udumalpet,
Tiruppur District.

Tr.C.M.P.No.669 of 2016
and
C.M.P.No.17593 of 2016

BR(CO)
CA(04/07/2017)



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