

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.685 of 2016
and C.M.P.No.17792 of 2016

A.Saisathya

...

Petitioner

Vs.

Mr.S.Sakthidasan

....

Respondent

Petition filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.6/2016 on the file of the Sub Court, Kanchipuram and transfer the same to Sub Court, Poonamallee to be tried alongwith HMOP No.364 of 2015 on the file of Sub Court, Poonamallee.

For Petitioner : Mr.V.Samuthiravijayan

For Respondent : No appearance

ORDER

This transfer petition is filed to withdraw H.M.O.P.No.6/2016 on the file of the Sub Court, Kanchipuram and transfer the same to Sub Court, Poonamallee to be tried alongwith HMOP No.364 of 2015 on the file of Sub Court, Poonamallee.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 15.08.2014 at Thirupathi Thirumanamahala, Kanchipuram. Due to difference of opinion, the petitioner left the matrimonial house and is residing with her parents at Avadi. The petitioner filed H.M.O.P.No.364 of 2015 for restitution of conjugal rights and the same is pending before Sub Court, Poonamallee. Subsequently, the petitioner filed complaint before Judicial Magistrate Court at Poonamallee in D.V.No.3 of 2016 seeking maintenance and other reliefs. On receiving notice in both the cases, the respondent filed HMOP No.6 of 2016 before Sub Court, Kanchipuram.

3. According to the petitioner, she is residing with her parents at Avadi. The distance between Avadi and Kancheepuram is

more than 100 kilometers and it is very difficult for her to travel along with her aged parents, for each and every hearing before Sub Court, Kancheepuram. She is not having any independent income and is depending on her parents for her day-to-day expenses, including the travelling expenses. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition.

4. Though notice has been served on the respondent and the name of the respondent being printed in the cause list, there is no representation 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 H.M.O.P.No.6 of 2016 from the file of Sub Court, Kanchipuram to the file of Sub Court, Poonamallee where H.M.O.P.No.364 of 2015 filed by the petitioner is pending.

6. Taking into consideration the above facts and for convenience of both parties and to avoid conflicting decisions, both H.M.O.P.No.6 of 2016 pending on the file of the Sub Court, Kanchipuram and H.M.O.P.No.364 of 2015, pending on the file of Sub Court, Poonamallee are to be tried together in the same Court, for joint trial. The Presiding Officer, Sub Court, Kanchipuram is directed to transmit all the records pertaining to H.M.O.P.No.6 of 2016 to the file of Sub Court, Poonamallee, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the Presiding Officer, Sub Court, Poonamallee, is directed to dispose of the case, as expeditiously as possible, in any event, not later than four (4) months 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/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rgr

To

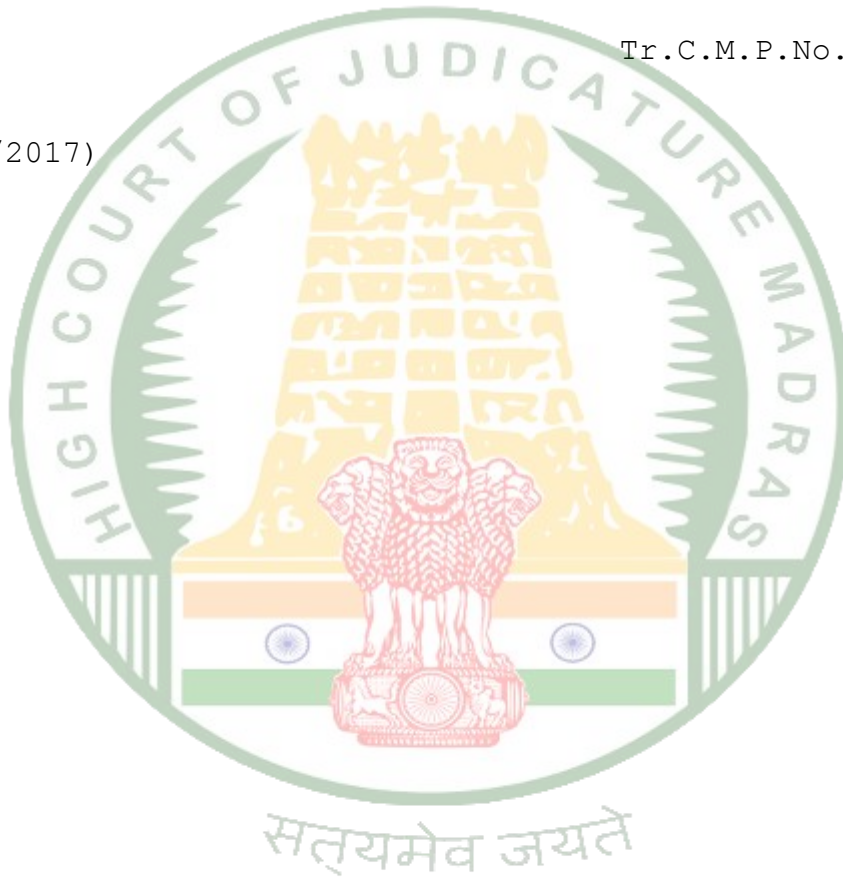
1.The Subordinate Judge,
Poonamallee.

2.The Subordinate Judge,
Kanchipuram.

+lcc to Mr.V.Samuthiravijayan, Advocate SR.No.41210

Tr.C.M.P.No.685 of 2016

SR(CO)
GN(27/07/2017)



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