

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.713 of 2016  
and CMP.No.18385 of 2016

R.Shylaja

... Petitioner

Vs.

S.Sarath Babu

... Respondent

Prayer:- Petition filed under Section 24 of C.P.C., to withdraw the HMOP.No.32 of 2015 on the file of the Sub Court, Madurantagam and transfer the same to the file of Family Court, Chengalpet.

For Petitioner : Mr.K.Govi Ganesan  
For Respondent : Mr.N.Nagusah

O R D E R

This petition is filed to withdraw the proceedings in H.M.O.P.No.32 of 2015 pending on the file of the Sub Court at Madurantagam and transfer the same to the file of Family Court, Chengalpet.

2. The petitioner is the wife and respondent is the husband. It is the case of the petitioner that the marriage between the petitioner and respondent was conducted on 10.12.2014 as per Hindu rites and customs. According to the petitioner, right from date of marriage, the respondent-husband deserted her and she was sent to her parent's house and since then both are living separately. The respondent filed H.M.O.P.No.32 of 2015 on the file of the Sub Court, Madurantakam, to declare the marriage as null and void. The petitioner has come out with the present transfer petition stating that the petitioner is residing along with her parents at Chengalpet. Moreover, the respondent's father is a Senior Advocate in Madurantagam practising for more than 35 years, due to which, no Advocates are willing to appear on behalf of the petitioner before the Court at Madurantakam. Under the said circumstances, the petitioner has filed the present transfer petition praying to transfer the petition in HMOP.No.32 of 2015 from the file of Sub Court, Madurantakam to the file of Family Court, Chengalpet.

3. The learned counsel for the respondent filed counter and prays for dismissal of the transfer petition on the ground that the petition filed in HMOP lacks bonafide and merits. However, he prayed for early disposal of the said HMOP. It is also submitted by the learned counsel that the petitioner has not filed counter statement in the petition in HMOP.No32 of 2015 pending before the Sub Court, Madurantakkam.

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

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].

6. Having regard to the submissions made by the learned counsel on both sides and by relying on the above decision, the petition in H.M.O.P. No.32 of 2015 is ordered to be withdrawn from the file of Sub Court, Madurantakam and transferred to the file of Family Court, Chengalpet. The Sub Court, Madurantakam, is directed to transmit all the records pertaining to H.M.O.P.No.32 of 2015 to the file of Family Court, Chengalpet, within a period of two weeks from the date of receipt of a copy of this order. The petitioner is directed to file counter within four weeks from the date of receipt of copy of this order. Further, the learned Family Judge, Chengalpet is also directed to dispose of the HMOP proceedings as expeditiously as possible, in any event, not later than four months from the date of receipt of the case bundle from the Sub Court, Madurantakam.

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

सत्यमेव जयते

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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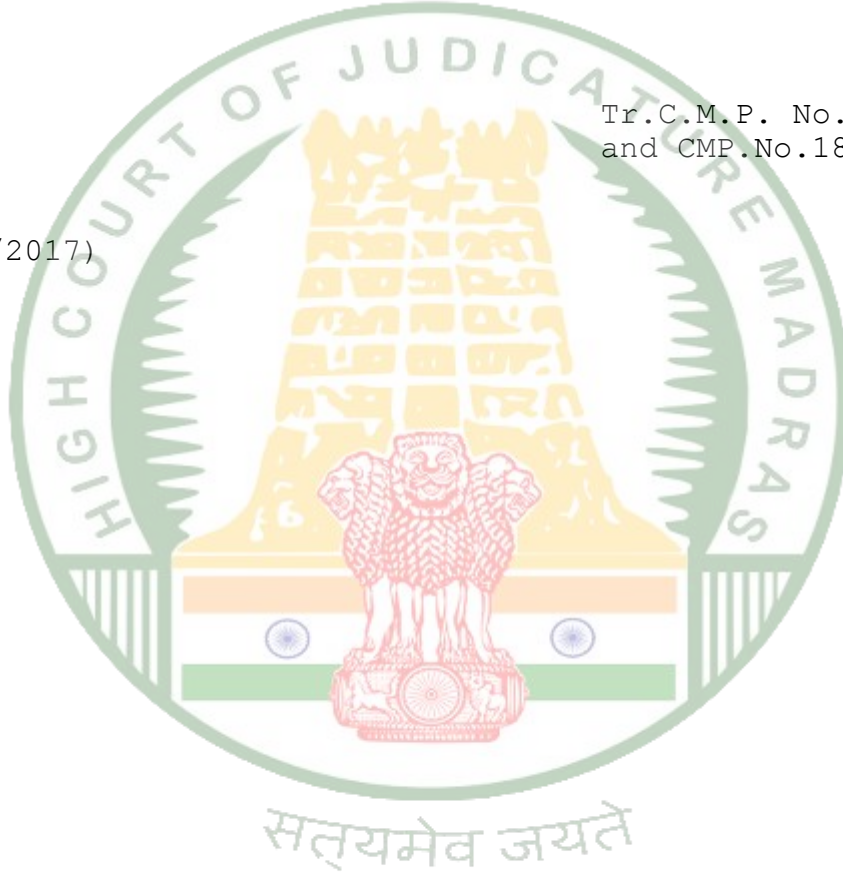
1. The Subordinate Judge,  
Madurantakam
2. The Judge, Family Court,  
Chengalpet.

+lcc to Mr.N.Naguash, Advocate Sr. 40844

+lcc to Mr.K.Govi Ganesan, Advocate Sr. 40972

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