

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2017

CORAM :

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

Tr.C.M.P. No.743 of 2016 &
C.M.P.No.19171 of 2016

S.Kavitha

.. Petitioner/Respondent

Vs.

A.Senthilkumar

.. Respondent/Petitioner

Prayer: Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.1 of 2015 pending on the file of Sub-Court, Mettur and to transfer to the same before Family Court, Salem for joint trial along with F.C.O.P.No.92 of 2015 pending on the file of Family Court, Salem.

For Petitioner : Mr.T.Karunakaran

For Respondent : Mr.P.Valliappan

O R D E R

This transfer petition is filed to withdraw the proceedings in H.M.O.P.No.1 of 2015 pending on the file of Sub-Court, Mettur and to transfer it to the Family Court, Salem for joint trial along with F.C.O.P.No.92 of 2015 pending on the file of Family Court, Salem.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 15.11.2009. In the wed lock, a male child was born on 11.08.2010. The respondent demanded dowry from the petitioner and harassed her, due to which, difference of opinion arose between the petitioner and respondent, and they got separated. The respondent filed H.M.O.P. No.1 of 2015 for divorce before the Sub-Court, Mettur. While so, the petitioner has filed a petition in F.C.O.P.No.92 of 2015 on the file of Family Court, Salem for restitution of conjugal rights. The petitioner has also filed a domestic violence case against the respondent and the same is pending before the Additional Mahila Court, Salem in D.V.O.P.No.69 of 2014.

3. According to the petitioner, she is residing at Salem. The distance between Salem and Mettur is about 60 kilometers and it takes one and a half hour for travel. Since her son is a school going child and there is nobody else to take care of her minor son, she finds it difficult to attend the Court hearings at Mettur. Therefore, the petitioner prays for transfer of H.M.O.P.No.1 of 2015 filed by the respondent before the Sub Court, Mettur to the file of the Family Court, Salem and to try along with F.C.O.P.No.92 of 2015 pending on the file of Family Court, Salem.

4. The learned counsel appearing for the respondent submitted that HMOP. No.1 of 2015 filed by the respondent is at part-heard stage and only to drag on the proceedings, the petitioner has filed this transfer petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

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.1 of 2015 from the file of Sub Court, Mettur to the file of Family Court, Salem where F.C.O.P.No.92 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.1 of 2015 pending on the file of the Sub Court, Mettur and F.C.O.P.No.92 of 2015, pending on the file of the Family Court, Salem are to be tried together in the same Court, for joint trial. The Sub Court, Mettur is directed to transmit all the records pertaining to H.M.O.P.No.1 of 2015 to the file of Family Court, Salem within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the learned Judge, Family Court, Salem is directed to dispose of the case, as expeditiously as possible, within a period of four 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 VI)

//True Copy//

Sub Assistant Registrar

ds/dh

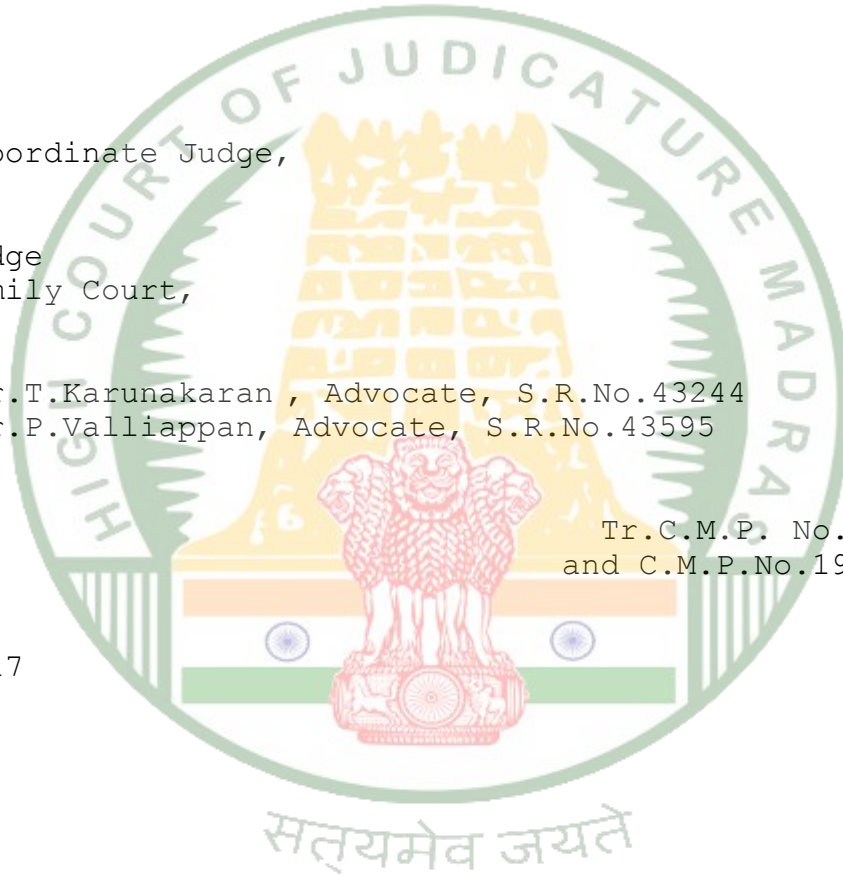
To

1. The Subordinate Judge,
Mettur
2. The Judge
The Family Court,
Salem.

+1cc to Mr.T.Karunakaran , Advocate, S.R.No.43244
+1cc to Mr.P.Valliappan, Advocate, S.R.No.43595

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MSM(CO)
CS/11/07/17



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