

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2017

CORAM :

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

Tr.CMP. No.748 of 2016
and CMP.No.19305 of 2016

S.Sathya

... Petitioner

Vs.

Kishore Kumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw HMOP.No.113 of 2015 pending on the file of the Principal Sub Court, Cheyyar and transfer to the file of the Family Court, Chengalpet and tag along with F.C.O.P.No.100 of 2016 pending on the file of Family Court, Chengalpet.

For Petitioner : Mr.B.Balavijayan

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.113 of 2015 pending on the file of the Principal Sub Court, Cheyyar and transfer the same to the file of the Family Court, Chengalpet, for being tried along with F.C.O.P.No.100 of 2016 pending on its file.

2. The petitioner is the wife and respondent is the husband. The case of the petitioner is that the marriage between the petitioner and respondent was conducted on 08.05.2013 as per Hindu rites and customs in the native place of the respondent at Vandavasi Taluk. Later, the respondent got employed at Chennai, and got their residence shifted to Chennai. During their stay at Chennai, the respondent used to harass the petitioner, suspecting her. A girl baby was born to them in the year June 2014. After sometime, the petitioner along with her girl baby at the instance of the respondent, went to her parent's house, and stayed there to attend her exams. Even after several requests of the petitioner, the respondent did not visit the petitioner's parental house to see the petitioner and her child. To her surprise, the petitioner received a legal notice followed by Court summons in HMOP.No.113 of 2015 filed by the respondent

before the Sub Court, Cheyyar seeking divorce. Thereafter the petitioner also filed a petition in FCOP.No.100 of 2016 on the file of Family Court, Chengalpet, seeking restitution of conjugal rights.

3. According to the petitioner, she is residing along with her child in her parental home at Chengalpet. The distance between Chengalpet and Cheyyar is around 50 kilometres and hence, she finds it very difficult for her to travel from Chengalpet to Cheyyar to attend the hearings. Therefore, she prays for transfer of H.M.O.P.No.113 of 2015 pending on the file of Principal Sub Court, Cheyyar to the file of Family Court, Chengalpet, and the same may be tried along with F.C.O.P.No.100 of 2016 filed by the petitioner, which is pending before the Family Court, Chengalpet.

4. Though notice has been served to the respondent and his name is printed in the cause list, there is no representation for the petitioner either in person or through counsel.

5. Heard the learned counsel for the petitioner.

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 HMOP.No.113 of 2015 pending on the file of the Principal Sub Court, Cheyyar to the file of Family Court, Chengalpet, where F.C.O.P.No.100 of 2016 filed by the petitioner is pending.

7. Taking into consideration the above facts and for convenience of both parties and to avoid conflicting decisions, both HMOP.No.113 of 2015 pending on the file of the Principal Sub Court, Cheyyar and F.C.O.P.No.100 of 2016, pending on the file of the Family Court, Chengalpet are to be tried together in the same Court, for joint trial. The Presiding Officer, Principal Sub Court, Cheyyar is directed to transmit all the records pertaining to HMOP.No.113 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. On receipt of the records, the Presiding Officer, Family Court, Chengalpet, is directed to dispose of the case at the earliest.

8. Accordingly, this Transfer CMP is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

dm/ds

To

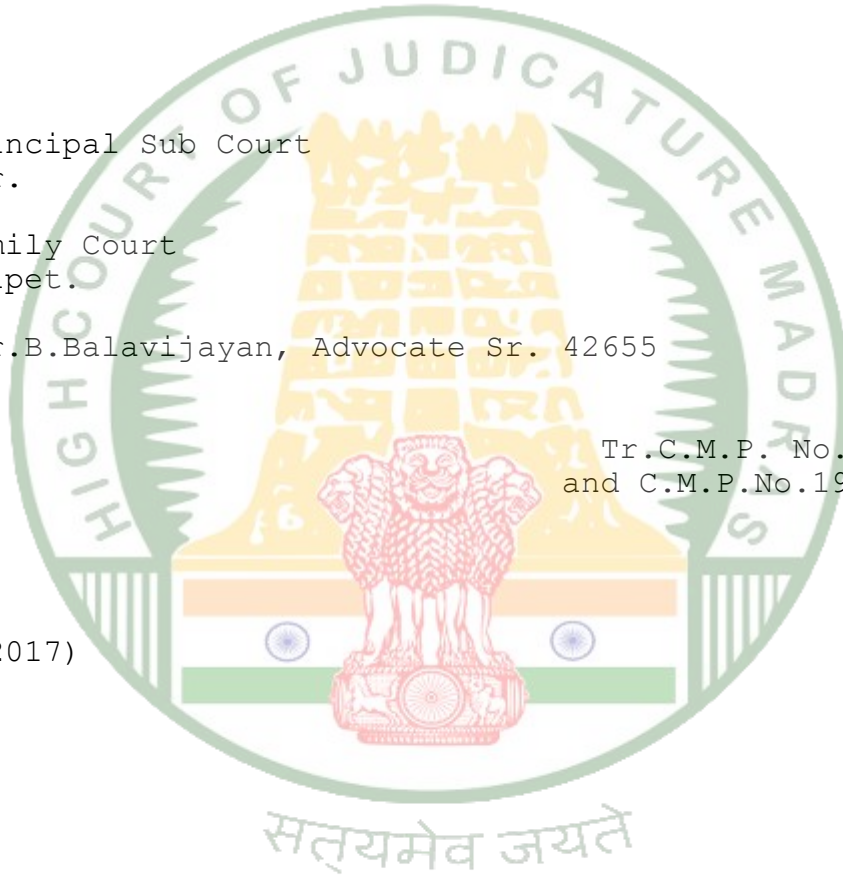
1. The Principal Sub Court
Cheyyar.

2. The Family Court
Chengalpet.

+1cc to Mr.B.Balavijayan, Advocate Sr. 42655

Tr.C.M.P. No.748 of 2016
and C.M.P.No.19305 of 2016

SVI (CO)
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