

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.780 of 2016

and C.M.P.No.19803 of 2016

.Subhashini ... Petitioner/Respondent

Vs.

K.Maheswaran ... Respondent/Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.47 of 2016 pending on the file of the Principal Subordinate Court at Tiruchirapalli and transfer the same to the file of III Additional Family Court at Chennai and to be tried along with H.M.O.P.No.3752 of 2016 pending before III Additional Family Court.

For Petitioner : Mr.S.Radha Devi
Sole Respondent - Served

For Respondent : No appearance

O R D E R

In a matrimonial dispute, the petitioner/wife has filed the above transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.47 of 2016, pending on the file of Principal Subordinate Court at Tiruchirapalli and transfer the same to the file of III Additional Family Court, Chennai wherein H.M.O.P.No.3752 of 2016 filed by the wife is pending.

2. The respondent/husband has filed H.M.O.P.No.47 of 2016 under Section 13(1)(i-a) of Hindu Marriage Act, before the Principal Subordinate Judge, Tiruchirapalli, for dissolution of marriage held between the petitioner and the respondent on 07.11.2011. The petitioner/wife has also filed H.M.O.P.No.3752 of 2016 under Section 9 of the Hindu Marriage Act, before the III Additional Family Court, Chennai for restitution of conjugal rights.

3. It is stated by the petitioner/wife that the minor child born out of their wedlock is a school going child and he is with the mother. It would be difficult for her to go to Tiruchirapalli for each hearing leaving behind the child with her aged mother. The husband is said to be employed in TATA Consultancy Services in Chennai and living in Urapakkam, Chennai. Hence, it is stated that even after the O.P. is transferred from Sub Court, Tiruchirapalli to III Additional Family Court, Chennai, the husband would not have any difficulty in attending the hearings.

4. Heard the learned counsel for the petitioner. Though the respondent was served with the notice, he has not entered appearance either in person or through counsel.

5. Considering the merits of the case and in view of Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, convenience of the wife is paramount while deciding the transfer petition in matrimonial matter. Being satisfied with the reasons furnished by the wife, this Court is inclined to transfer H.M.O.P.No.47 of 2016 pending on the file of Principal Sub Court, Tiruchirapalli to the file of III Additional Family Court, Chennai to be tried along with H.M.O.P.No.3752 of 2016.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.47 of 2016 pending on the file of Principal Sub Court, Tiruchirapalli shall stand withdrawn and transferred the same to the file of III Additional Family Court, Chennai to be tried along with H.M.O.P.No.3752 of 2016, pending before III Additional Family Court. No Costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

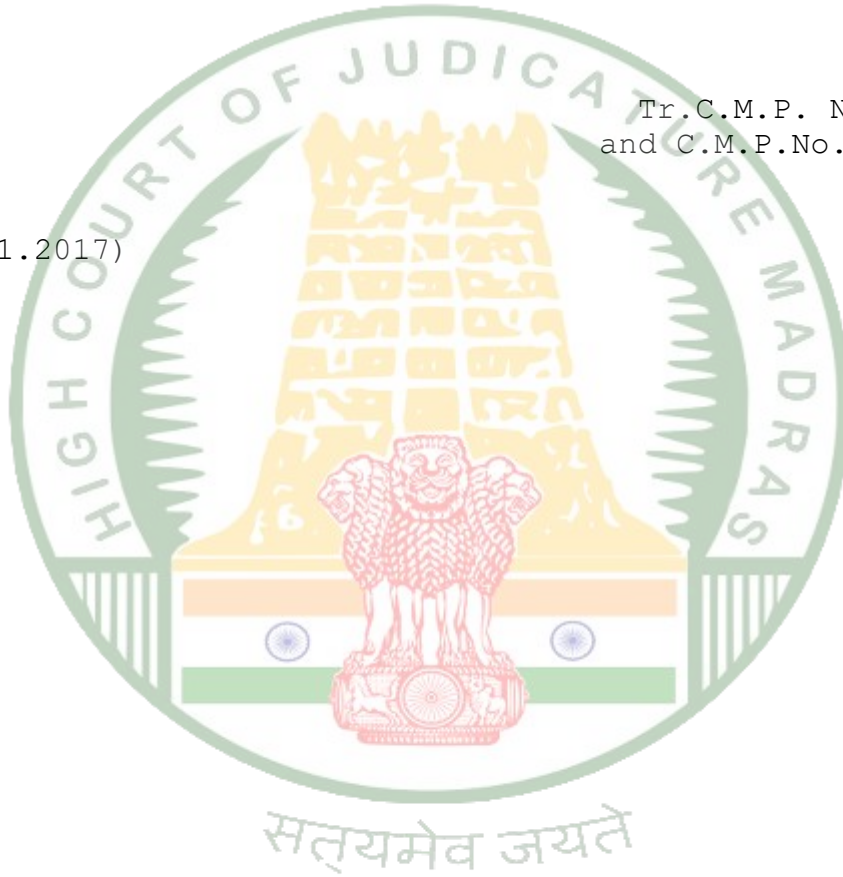
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To

1. The Principal Sub Court,
Tiruchirapalli.
2. The Judge,
III Additional Family Court, Chennai.

Tr.C.M.P. No.780 of 2016
and C.M.P.No.19803 of 2016

GJ(CO)
KP(21.11.2017)



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