

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-06-2017

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.814 of 2016
& C.M.P.No.20389 of 2016

S.Bakkiyalakshmi ... Petitioner/Respondent

Vs.

R.Somasundaram ... Respondent/Petitioner

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the HMOP No.30/2010 pending on the file of the Sub Court, Pollachi and transfer the same to the Family Court, Coimbatore.

For Petitioner : Mr.R.Bhagawat Krishna
For Respondent : No Appearance

O R D E R

This transfer petition is filed to withdraw the HMOP No.30 of 2010 pending on the file of the Sub Court, Pollachi and transfer the same to the Family Court, Coimbatore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 13.11.2005 as per Hindu rites and customs. After marriage both were residing in the matrimonial home at Samathur, Pollachi Taluk, Coimbatore. The respondent's parents started harassing the petitioner and thrown her out from the matrimonial home. The petitioner filed maintenance petition in M.C.No.133 of 2010 on the file of Family Court, Coimbatore, an interim order was passed in I.A.No.24 of 2012, directing the respondent to pay a sum of Rs.1,500/- (Rupees one thousand five hundred only) as monthly maintenance. The petitioner also filed HMOP No.999 of 2010 for restitution of conjugal rights and the same is pending before the Family Court, Coimbatore. On receiving notice, the respondent filed HMOP No.30 of 2010 on the file of the Sub Court, Pollachi, for divorce.

3. According to the petitioner, she is residing in Coimbatore District. The distance between Coimbatore and Pollachi is more than 60 kilometers and being a lady, it is very difficult for her to attend each and every hearing before Sub Court, Pollachi. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition to transfer HMOP No.30 of 2010 filed by the respondent, from the file of Sub Court, Pollachi, to the file of Family Court, Coimbatore and to be tried along with HMOP.No.999 of 2010 pending on its file.

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

5. It is well settled law 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 for the petitioner and by relying on the above decision, the petition in HMOP No.30 of 2010 is ordered to be withdrawn from the file of the Sub Court, Pollachi and transferred to the file of Family Court, Coimbatore and tried along with HMOP No.999 of 2010. The Sub Court, Pollachi is directed to transmit all the records pertaining to HMOP No.30 of 2010 to the file of the Family Court, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. The Family Court, Coimbatore, is directed to dispose of the case, as expeditiously as possible, in any event, not later than four months from the date of receipt of the said records.

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

pvs

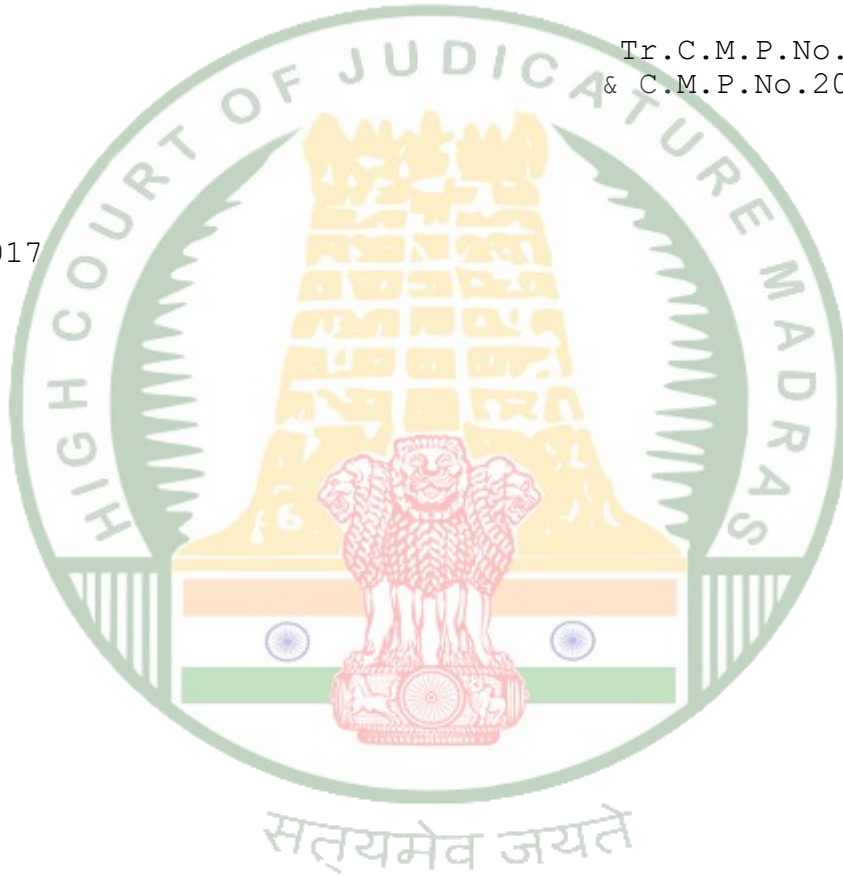
To

1. The Sub Court, Pollachi
2. The Family Court, Coimbatore

+1 cc to Mr.R.Bhagawat Krishnan Advocat sr 43262

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