

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

Tr. C.M.P No.832 of 2016

& C.M.P.No.20548 of 2016

R.Kalaiselvi ... Petitioner/Respondent

Vs.

G.Gopikrishnan Respondent/Petitioner

Prayer : Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer H.M.O.P.No.147 of 2015 pending before the Sub-Court, Theni to Sub-ordinate Court at Tambaram.

For Petitioner : Mr.A.M.Natraj
For Respondent : Mr.R.Sami

O R D E R

This petition is filed to withdraw and transfer H.M.O.P.No.147 of 2015 pending before the Sub-Court, Theni to Sub-ordinate Court at Tambaram.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and the respondent was conducted on 09.09.2013 as per Hindu rites and customs. In the wedlock a male child was born on 25.09.2014. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.147 of 2015 on the file of Sub Court, Theni for divorce and the same is pending. The petitioner also filed HMOP No.776 of 2016 on the file of Sub Court, Tambaram for restitution of conjugal rights.

3. According to the petitioner, she is residing at Chennai alongwith her child and attending classes for bank exams. The respondent is working as software engineer in M/s.Paypal India Pvt. Ltd., Sholinganallur, Chennai and only to harass the petitioner, he has filed the HMOP before Sub Court, Theni. The distance between Chennai and Theni is 500 kms and it is very

difficult for her to attend each and every hearing before Sub Court, Theni alongwith her minor child. She is not having any independent income and is depending on her parents for her day-to-day expenses, including the travelling expenses. In these circumstances, she has come out with the present Transfer Civil Miscellaneous Petition.

4. Heard the learned counsel for the petitioner, respondent and perused the materials available on record.

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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in H.M.O.P.No.147 of 2015 filed by the respondent, from the file of Sub Court, Theni, to the file of Sub Court, Tambaram where H.M.O.P.No.776 of 2016 filed by the petitioner for restitution of conjugal rights, is pending.

6. Considering the facts and circumstances of the present case and having satisfied with the reasons given in the affidavit filed in support of the petition, without deciding the issue on merits, the petition in H.M.O.P.No.147 of 2015 is ordered to be withdrawn from the file of Sub Court, Theni and transferred to the file of the Sub Court, Tambaram to be tried alongwith HMOP No.776 of 2016, pending on its file. The Presiding Officer, Sub Court, Theni is directed to transmit all the records pertaining to H.M.O.P.No.147 of 2015 to the file of the Sub Court, Tambaram, 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, Sub Court, Tambaram is directed to dispose of both HMOP Nos.147 of 2015 & 776 of 2016, as expeditiously as possible, in any event, not later than six (6) months from the date of receipt of case bundles from the concerned court.

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

rgr

To

1.The Subordinate Judge,
Theni.

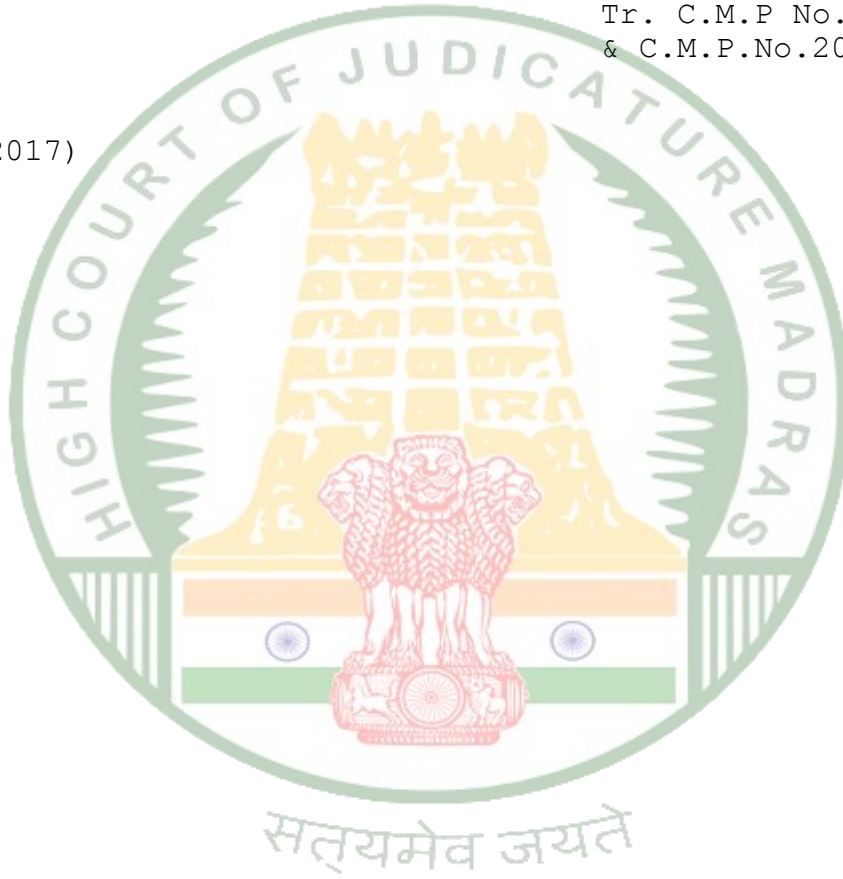
2.The Subordinate Judge,
Tambaram.

+1cc to Mr.R.Sami, Advocate SR.No.46141

+1cc to Mr.A.M.Natraj, Advocate SR.No.45688

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