

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.16 of 2017
and C.M.P.No.486 of 2017

Archna

... Petitioner

Versus

Naveen Kumar

... Respondent

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the case in H.M.O.P.No.97 of 2016 on the file of the Sub Court Arni, Thiruvannamalai District and transfer the same to Sub Court, Uthankarai, Krishnagiri District.

For Petitioner : P.Balamurugan

For Respondent : served- No appearance

ORDER

The wife is the petitioner herein seeking withdrawal of H.M.O.P.No.97 of 2016 filed by the husband under Section 13 (1) (i-a) of the Hindu Marriage Act for divorce pending on the file of Sub Court Arni, Thiruvannamalai District and transfer the same to the file of Sub Court, Uthankarai, Krishnagiri District, as the wife is living there.

2. There seems to be several proceedings between the parties earlier. The respondent/husband had filed F.C.O.P.No.4834 of 2015 under Section 10 of the Hindu Marriage Act, on the file of II Additional Family Court, Chennai for judicial separation. Seeking transfer of the same, the petitioner herein filed Tr.C.M.P.No.22 of 2017 before this Court. As the respondent/husband withdrew F.C.O.P.No.4834 of 2015, the said Tr.C.M.P.No.22 of 2017 was also withdrawn.

3. Earlier, Tr.C.M.P.No.708 of 2016 was filed by the respondent/husband seeking transfer of H.C.O.P.No.20 of 2016 pending on the file of Sub Court, Uthankarai to Sub Court, Polur, Thiruvannamalai District. The said transfer petition was dismissed for default on 09.06.2017. It appears that no restoration petition has been filed to restore the same.

4. As H.M.O.P.No.97 of 2016 filed by the husband under Section 13(1) (i-a) of the Hindu Marriage Act is pending before the Sub Court Arni, Thiruvannamalai District and H.M.O.P.No.20 of 2016 filed by the wife under section 9 of the Hindu Marriage Act is pending Sub Court, Uthankarai, there would be conflict of decisions, if they are tried independently.

5. The wife has also stated in her affidavit that it would be difficult for her to travel to Sub Court, Arani from Uthankarai. Hence, the transfer is sought for.

6. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent is served with notice and his name having been printed in the cause list, there is no representation for him either in person or through counsel.

7. As the trial of both H.M.O.Ps if tried independently, would lead to conflict of decisions and also considering the convenience of the wife as recommended under Section 19 (iii-a) of the Hindu Marriage Act, this Court is inclined to transfer H.M.O.P.No.97 of 2016 pending on the file of the Sub Court, Arni, Thiruvannamalai to the file of the Sub Court, Uthangari to be tried along with H.M.O.P.No.20 of 2016.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.97 of 2016 pending on the file of the Sub Court, Arni, Thiruvannamalai shall stand withdrawn and transferred to the file of the Sub Court, Uthangari to be tried along with

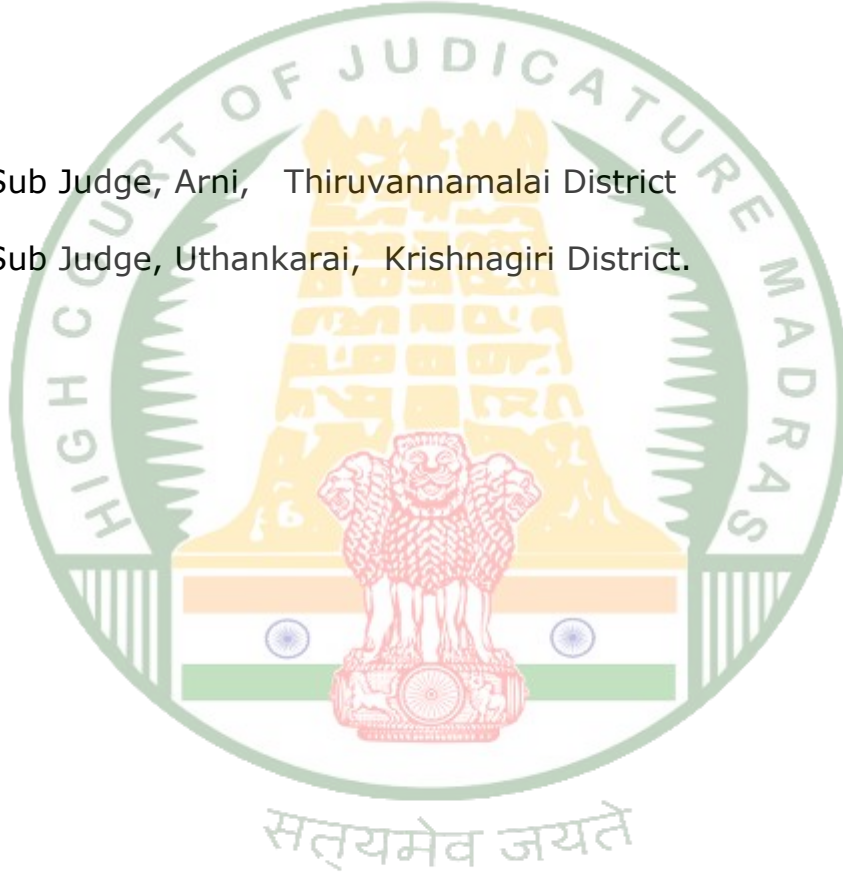
H.M.O.P.No.20 of 2016, which is already pending there. No costs.
Consequently, connected miscellaneous petition is closed.

09.11.2017

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To

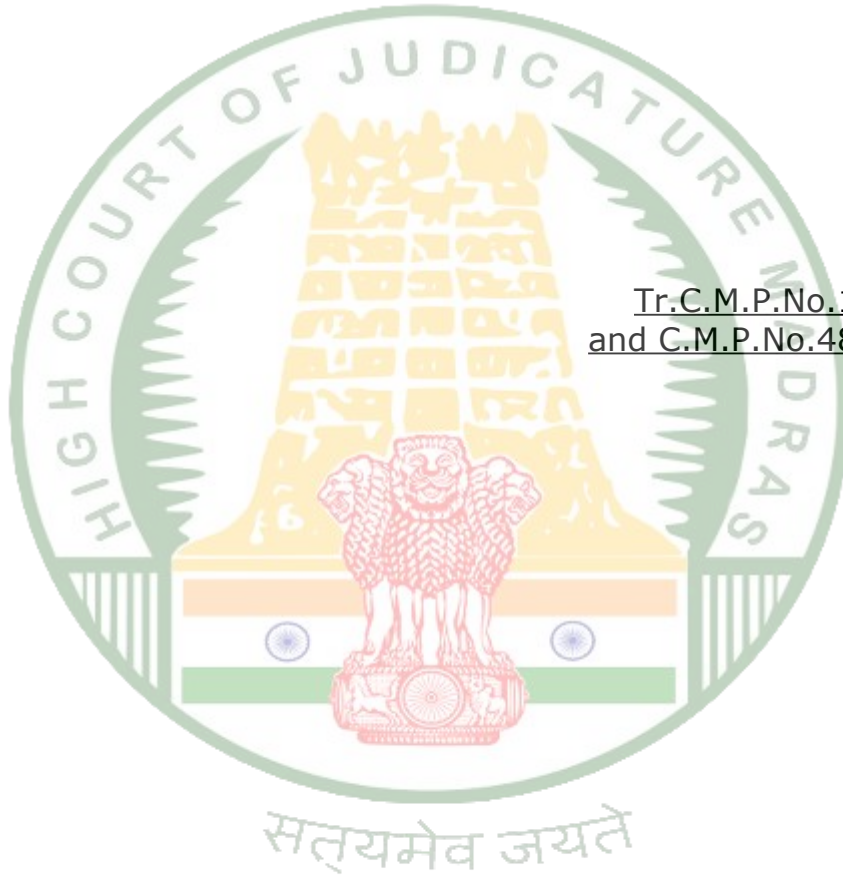
1. The Sub Judge, Arni, Thiruvannamalai District
2. The Sub Judge, Uthankarai, Krishnagiri District.



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PUSHPA SATHYANARAYANA, J.

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