



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Tr.C.M.P(MD)No.555 of 2016

and

C.M.P(MD)No.11767 of 2016

Tr.C.M.P(MD)No.555 of 2016:

Hemalatha

... Petitioner/Respondent

Vs.

Prabhakar

... Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the petition in H.M.O.P.No.105 of 2016 pending on the file of the Sub Court, Srivilliputtur and transfer the same to the Principal Sub Court, Tenkasi, for having joint trial along with the petition in H.M.O.P.No.168 of 2014.

For Petitioner : Mr.D.Nallathambi

For Respondent : Mr.G.Marimuthu

H.M.O.P.No.168 of 2014:

Hemalatha

... Petitioner/Wife

Vs.

Prabhakar

... Respondent/Husband

Prayer: Petition filed under Section 13(1)(i-a) of the Hindu Marriages Act, 1955, before the Principal Sub Judge, Tenkasi, to dissolve the marriage between the petitioner and the respondent which took place on 10.07.2013 and also to grant a decree for divorce.

H.M.O.P.No.105 of 2016:

Prabhakar

... Petitioner/Husband

<https://hcservices.ecourts.gov.in/hcservices/>**Vs.**

Hemalatha

... Respondent/Wife



Prayer: Petition filed under Section 9 of the Hindu Marriages Act, 1955, before the Sub Judge, Srivilliputhur, to direct the respondent to live with the petitioner and for restitution of conjugal rights.

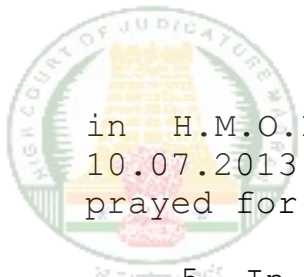
COMMON ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner/wife seeking to transfer H.M.O.P.No.105 of 2016 on the file of the Sub Court, Srivilliputtur, filed by the respondent/husband seeking restitution of conjugal rights, to the file of the Principal Sub Court, Tenkasi, wherein H.M.O.P.No.168 of 2014 filed by the petitioner/wife is pending.

2. The petitioner/wife and the respondent/husband got married on 10.07.2013. However, after the marriage, a dispute arose between the parties and they have been living separately from 23.12.2013, within five months of the marriage. Therefore, H.M.O.P.No.168 of 2014 has been filed by the petitioner/wife for divorce. Whereas the respondent/husband filed H.M.O.P.No.105 of 2016 seeking restitution of conjugal rights. Only to transfer the petition filed by the respondent/husband, the present petition has been filed.

3. Considering the young age of both the parties, this Court directed both of them to be present before this Court. Both the parties, after mediation, would categorically state that they do not want to get reunited and they seek divorce. The parents of the petitioner/wife are also present, who also stated that their daughter is not willing to rejoin the respondent/husband. Both the parties filed a Joint Compromise Memo, dated 21.02.2017, signed by both the parties and counter-signed by the respective learned Counsel for the parties. In the said Joint Compromise Memo, dated 21.02.2017 and also before this Court, both the parties categorically stated that there is nothing due from both the parties and it is also agreed that both the parties shall not initiate any proceedings against each other in future.

4. In view of the above, no useful purpose would be achieved, if both the proceedings pending before the trial Courts are allowed to continue and therefore, this Court *suo motu* withdraws the petition in H.M.O.P.No.168 2014 on the file of the Principal Sub Court, Tenkasi, filed by the petitioner/wife seeking divorce by exercising the powers under Article 227 of the Constitution of India and Section 151 of the Code of Civil Procedure and transfers the same to the file of this Court and grants a decree of divorce



in H.M.O.P.No.168 of 2014 by dissolving the marriage dated 10.07.2013. Accordingly, H.M.O.P.No.168 of 2014 is ordered as prayed for.

5. In view of the decree passed in H.M.O.P.No.168 of 2014, the petition in H.M.O.P.No.105 of 2016 pending on the file of the Sub Court, Srivilliputtur, has become unnecessary and therefore, this Court *suo motu* withdraws the H.M.O.P.No.105 of 2016 filed by the respondent/husband seeking restitution of conjugal rights by exercising the powers under Article 227 of the Constitution of India and Section 151 of the Code of Civil Procedure and transfers the same to the file of this Court and dismisses the same as unnecessary. Accordingly, H.M.O.P.No.105 of 2016 is dismissed.

6. In the result, this Transfer Civil Miscellaneous Petition is ordered as above. The Joint Compromise Memo, dated 21.02.2017, shall form part and parcel of this order. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal Subordinate Judge, Tenkasi.
- 2.The Subordinate Judge, Srivilliputtur.
- 3.The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.D.NALLATHAMBI, ADVOCATE IN SR No. 9565

+ 1 CC TO Mr.G.MARIMUTHU, ADVOCATE IN SR No. 9449

RSB

TE/SV/SAR-I : 01/06/2017 : 3P/6C

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