

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2018

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.1033 of 2017
and C.M.P.No.21030 of 2017

Malarvizhi

.. Petitioner

-Vs.-

Sathish @ Vinoth Kumar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw and transfer the F.C.O.P.No.64 of 2017 pending on the file of the Family Court, Chengalpet to Sub Court, Kancheepuram to be tried along with M.C.No.4 of 2017.

For petitioner ... Mr.A.Jayaraman

For Respondent ... Mr.M.Rajasekhar

O R D E R

The petitioner/wife has filed the above Transfer Civil Miscellaneous Petition seeking to withdraw the F.C.O.P.No.64 of 2017 filed by the husband pending on the file of the Family Court, Chengalpet and transfer the same to the file of the Subordinate Court, Kancheepuram.

2. F.C.O.P.No.64 of 2017 is filed by the respondent-husband under Section 13(1) (i-a) of the Hindu Marriage Act on the file of the Family Court, Chengalpet for dissolution of marriage held between the petitioner and the respondent on 25.10.2015. The petitioner/wife has filed M.C.No.4 of 2017 for maintenance, which is pending before the II Judicial Magistrate, Kancheepuram.

3. In paragraph 7 of the affidavit filed in support of the petition, it is stated that the petitioner-wife is residing in Kancheepuram with her aged parents. She is wholly dependent on her parents to eke out her livelihood. It would be difficult for her to appear before the Courts simultaneously i.e. before the Family Court, Chengalpet in F.C.O.P.No.64 of 2017 for divorce and in M.C.No.4 of 2017 before the Judicial Magistrate

No.II, Kancheepuram for maintenance. Hence, she prays for transfer.

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

5. Learned counsel for the respondent-husband submitted that the respondent-husband has got no serious objection for transferring the said H.M.O.P from Chengalpet to Kancheepuram. However, the learned counsel for the respondent requests that the appearance of the respondent-husband may be dispensed with before the Court.

6. As the respondent-husband has already been travelling to Kancheepuram to contest M.C.No.4 of 2017 filed by the wife, it would not be prejudicial for him to travel to Chennai, if the transfer is ordered.

7. Considering the convenience of the respondent-husband, his appearance is dispensed with before the transferee Court till the commencement of trial.

8. Considering the above facts and circumstances and the fact that Section 19(iii-a) of the Hindu Marriage Act gives preference for the wife in respect of the place where she resides and no objection having been expressed by the learned counsel for the respondent-husband, this Court deems it fit to transfer the said F.C.O.P.No.64 of 2017 from the file of Family Court, Chengalpet to the file of Subordinate Court, Kancheepuram to be tried along with M.C.No.4 of 2017.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.64 of 2017 pending on the file of Family Court, Chengalpet is withdrawn and transferred to the file of Subordinate Court, Kancheepuram to be tried along with M.C.No.4 of 2017. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)
//True Copy//
Sub Assistant Registrar

srn

To

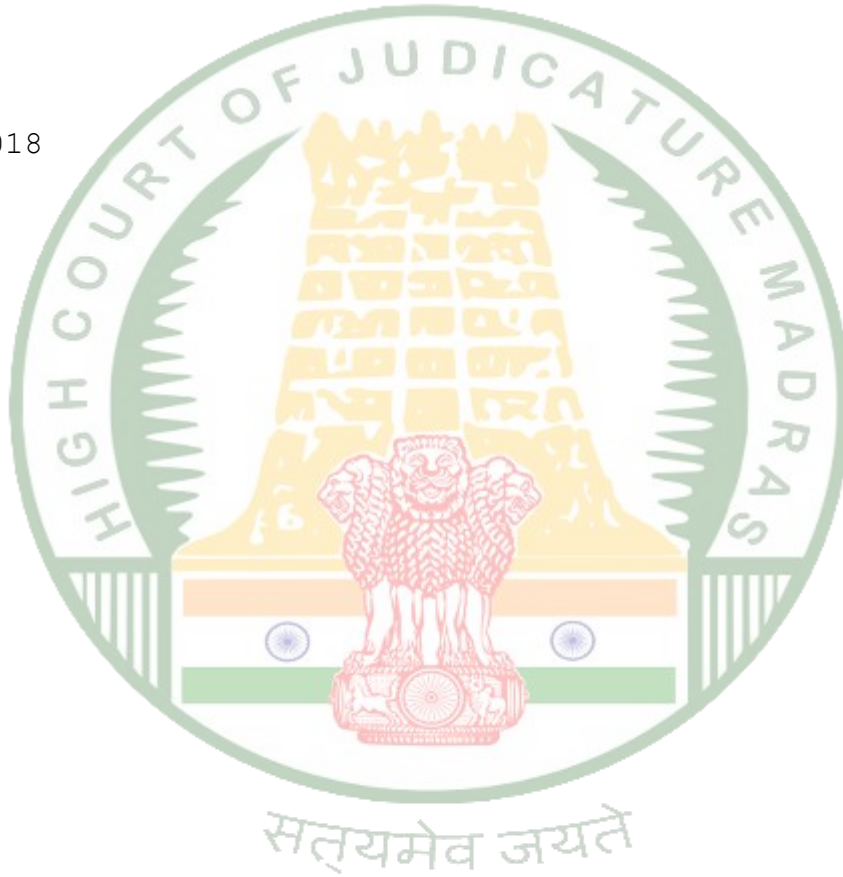
1. The Family Court, Chengalpet

2. The Sub Court, Kancheepuram

+1 cc to Mr.A.Jayaraman Advocate sr 18861

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