

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.260 of 2017
and C.M.P.No.4843 of 2017

R.Dharanesh @ Murugan

... Petitioner/Petitioner

Vs.

N.Prabavathi @ Parameswari

... Respondent/Respondnet

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.3945 of 2011 pending on the file of the Principal Family Court, Chennai and transfer the same to the file of the Subordinate Court, Vaniyambadi.

For Petitioner : M/s.Uma Maheswari
for M/s.Na.Thara

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.3945 of 2011 pending on the file of the Principal Family Court, Chennai and transfer the same to the file of the Subordinate Court, Vaniyambadi.

2.The petitioner is the husband and respondent is the wife. The marriage between the petitioner and respondent was conducted on 30.08.2007 at SMP Mahal Kalyanamandapam, Ambur. A male child was born on 01.06.2008 in the wed-lock. Due to difference of opinion, both the petitioner and respondent are living separately. After exchange of notice, the petitioner filed H.M.O.P.No.31 of 2010 on the file of the Subordinate Court, Vaniyambadi. The respondent filed Tr.C.M.P.No.554 of 2010 before this Court to transfer the said H.M.O.P.No.31 of 2010 from Subordinate Court, Vaniyambadi to Chennai.

3.According to the petitioner, he did not oppose the said Transfer Petition on the ground that if petition is posted for conciliation, the respondent may be persuaded to join the petitioner in the matrimonial home. The said Transfer Petition was ordered and H.M.O.P.No.31 of 2010 was transferred to Principal Family Court, Chennai in H.M.O.P.No.3945 of 2011. The respondent filed I.A.No.1648 of 2012 claiming maintenance. The petitioner filed I.A.No.87 of 2014 for visitation rights

to see his minor child. Both the applications are pending. According to the petitioner, after conciliation, H.M.O.P.No.3945 of 2011 was posted before Lok Adalat for settlement. After negotiation before Lok Adalat, the respondent agreed to receive Rs.8,00,000/- as settlement. The Presiding Officer of Lok Adalat directed the counsel for the petitioner to file a memo. On the next hearing, the respondent appeared before Lok Adalat and informed that she is not ready for settlement and wants to continue the matrimonial life with the petitioner. Again H.M.O.P.No.3945 of 2011 was posted before the Principal Family Court, Chennai for enquiry.

4.The petitioner has come out with the present Transfer Civil Miscellaneous Petition for transferring H.M.O.P.No.3945 of 2011 pending on the file of the Principal Family Court, Chennai to the Subordinate Court at Vaniyambadi, so that during conciliation, the respondent may agree to live with the petitioner and due to his health, he is unable to attend the hearing at Chennai. The contention of the petitioner for transferring H.M.O.P is that the respondent is unstable in her attitude and intention with regard to matrimonial life.

5.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and she entered appearance through counsel, today there is no representation for her either in person or through counsel.

6.The reason given by the petitioner is not valid and sufficient for transferring H.M.O.P.No.3945 of 2011 from the file of the Principal Family Court, Chennai to the file of the Subordinate Court, Vaniyambadi. Hence, the Transfer Civil Miscellaneous Petition is liable to be dismissed.

7.In view of the above, the learned Family Court Judge is directed to hear and dispose of I.A.Nos.1648 of 2012 filed by the respondent for maintenance and I.A.No.87 of 2014 filed by the petitioner for visitation rights within a period of two months from the date of receipt of a copy of this order and also to dispose of the main H.M.O.P.No.3945 of 2011 within a period of two months thereafter.

8. With the above direction, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Judge, Family Court,
Chennai.

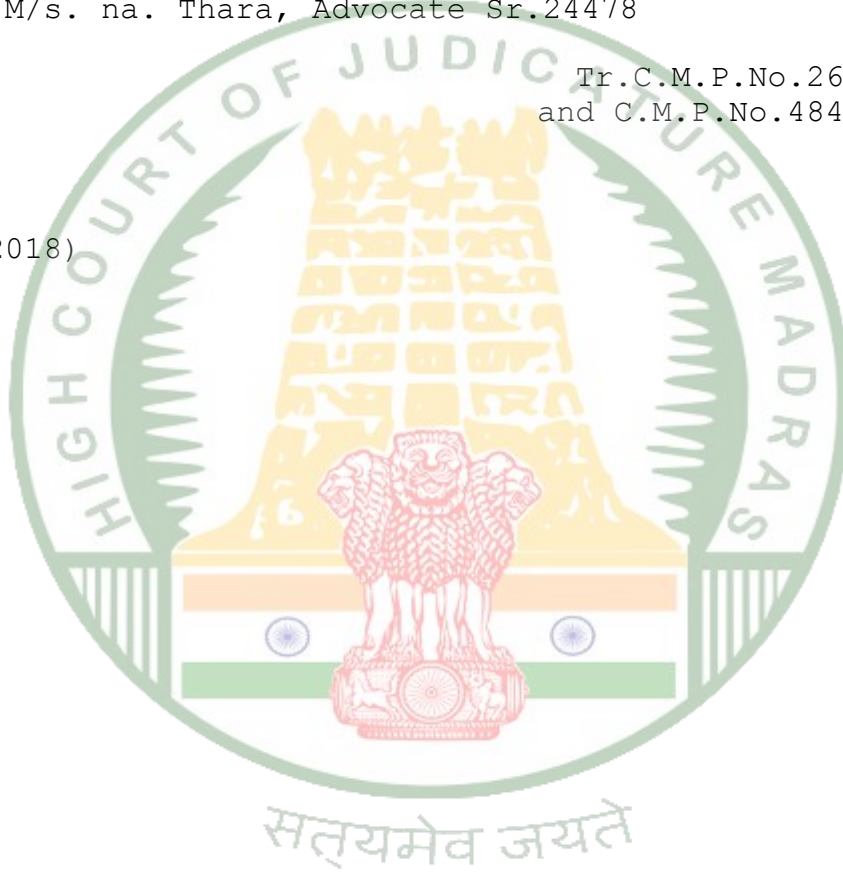
2.The Subordinate Judge,
Vaniyambadi.

3. The Section Officer, VR Section,
High Court, Madras. (2-copies)

+ 1 cc to M/s. na. Thara, Advocate Sr.24478

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KK (CO)
EU (19/04/2018)



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