

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.699 of 2017

and

C.M.P.Nos. 14063 & 20712 of 2017

P.Uma Maheswari ... Petitioner/Respondent

Vs.

B.Balaji @ Balaji Sai Bhujargga ... Respondent/Petitioner

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.626 of 2016 pending on the file of Sub Court, Tambaram and transfer the same to the file of Family Court, Tiruchirappalli.

For Petitioner : Mr.R.Babu

For Respondents : Ms.K.Santhakumari

O R D E R

This petition is filed to withdraw H.M.O.P.No.626 of 2016 pending on the file of Sub Court, Tambaram and transfer the same to the file of Family Court, Tiruchirappalli.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 24.08.2009. In the wedlock, a female child was born. Due to torture and cruelty, the petitioner filed various complaints and petitions against the respondent and also filed M.C.No.1 of 2011 for maintenance before the Judicial Magistrate No.II, Tiruchirappalli. While so, the respondent filed H.M.O.P.No.626 of 2016 on the file of Sub Court, Tambaram, for dissolution of marriage.

3.According to the petitioner, she is residing at Tiruchirappalli. The distance between Tiruchirappalli and Tambaram is more than 350 kilometers and hence, it will be very

difficult for her to travel such a long distance to attend the Court proceedings for each and every hearing at Tambaram along with minor child. Further, the parents of the petitioner are aged persons. They are suffering from various illness. There is no one to accommodate and to attend the Court proceedings at Tambaram. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.626 of 2016 pending on the file of Sub Court, Tambaram, to the file of Family Court, Tiruchirappalli.

4. The learned counsel for the respondent contended that the respondent is suffering from Hypertension and he is unable to do any work to earn his livelihood and he is also job less. He is depending upon the aged parents for physical and monetary support and unable to act independently. If the H.M.O.P. is transferred to Family Court, Tiruchirappalli, it will be very difficult for him to travel such a long distance to attend the Court proceedings for each and every hearing. Further, the respondent and his parents are being abused and assaulted by the petitioner and his family members and there is a life threat at the hands of them, when he attends the Court proceedings at Tiruchirappalli. The learned counsel for the respondent also contended that the respondent filed H.M.O.P.No. 626 of 2016, which is pending before the Sub Court, Tambaram, where the appearance of the parties are not necessary for all the hearings and she can appear only through advocate and prayed for dismissal of the Tr.C.M.P.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record. Both the petitioner and respondent and parents of the respondent appeared before this Court today.

6. This Court observed the physical condition of respondent and it is clear that respondent is not in a position to travel alone. Respondent's parents are also aged persons, who appeared before this Court. It is well settled that convenience of wife and residence must be given preference as per the Judgment of Hon'ble Apex Court. At the same time, the convenience of husband also must be taken into consideration in the facts of particular case. In the present case, the learned counsel for the respondent contended that respondent and his parents were abused and assaulted by family members of the petitioner, when they went to attend proceedings initiated by petitioner in another case at Tiruchirappalli. H.M.O.P. filed by respondent is pending in Sub Court, Tambaram, in which proceedings the petitioner can appear through Advocate and need not be present for each and every hearing.

7. Considering the above facts and physical condition of the respondent, the above Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

LPP

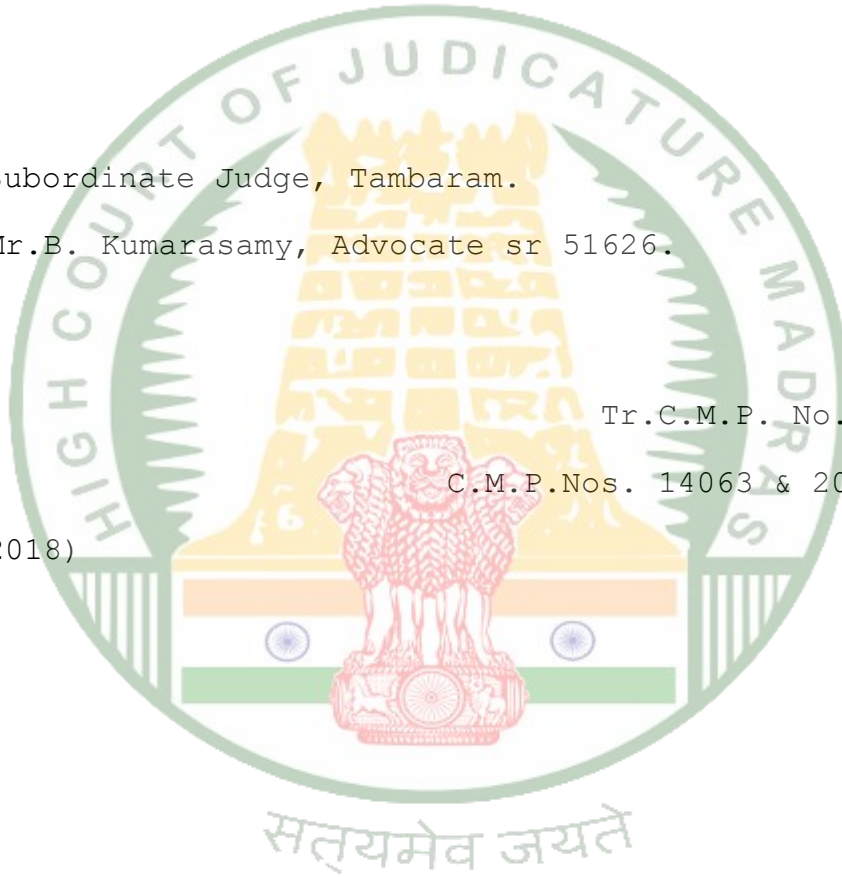
To

The Subordinate Judge, Tambaram.

+1 CC to Mr.B. Kumarasamy, Advocate sr 51626.

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SP(18/09/2018)



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