

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.702 of 2017

and C.M.P.No.14100 of 2017

P.Shakthi

... Petitioner

Vs.

R.Saravanan

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.126 of 2017 pending on the file of the Subordinate Court, Cuddalore and transfer the same to the file of the Subordinate Court, Tambaram.

For Petitioner : Mr.A.Ganapatheeswaran

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.126 of 2017 pending on the file of the Subordinate Court, Cuddalore and transfer the same to the file of the Subordinate Court, Tambaram.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 12.06.2013 as per the Hindu rites and customs at Narayana Sesha Mahal, Near Clock Tower, Cuddalore O.T. At the time of marriage, the petitioner was working in Chennai and the respondent was doing electrical contract business in Cuddalore. The respondent started questioning the character and fidelity of the petitioner. The respondent and her family members often demanded dowry from the petitioner and ill-treated her and thrown her out from the matrimonial home. Both the petitioner and respondent are living separately. In the circumstances, the petitioner filed H.M.O.P.No.350 of 2017 on the file of the Subordinate Court, Tambaram, for dissolution of marriage conducted between the petitioner and respondent on 12.06.2013. On receiving summons in H.M.O.P.No.350 of 2017, the respondent appeared through his counsel before the Subordinate Court, Tambaram, on 14.07.2017. Then H.M.O.P.No.350 of 2017 was posted before the Lok Adalat on 03.08.2017 and it was adjourned to

09.08.2017. On these days, the petitioner and respondent appeared before the Lok Adalat, but the matter was not settled. H.M.O.P.No.350 of 2017 was referred back to the Court and the same was posted on 31.08.2017. While so, the petitioner has received summons in H.M.O.P.No.126 of 2017, which was filed by the respondent before the Subordinate Court, Cuddalore, for restitution of conjugal rights, for the hearing on 09.08.2017.

3.According to the petitioner, the respondent, his family members and relatives are politically and economically strong persons in their locality. The petitioner is residing at Nanganallur in Chennai. The petitioner is now working in a small concern and she cannot apply for leave regularly to attend the proceedings at the Subordinate Court, Cuddalore, in H.M.O.P.No.126 of 2017. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.126 of 2017 from the file of the Subordinate Court, Cuddalore, to the file of the Subordinate Court, Tambaram.

4.When this petition is taken up for hearing, the learned counsel for the petitioner submitted that now H.M.O.P.No.126 of 2017 is pending before the Principal Subordinate Court, Cuddalore.

5.Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name has been printed in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

6. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Further as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

7.Having regard to the submissions made by the learned counsel for the petitioner that the petitioner in view of her employment in a small company cannot take leave to attend the hearing in the Subordinate Court and the decisions of the Hon'ble Apex Court referred to above, the petition in H.M.O.P.No.126 of 2017 is ordered to be withdrawn from the file of the Principal Subordinate Court, Cuddalore and transferred to the file of the Subordinate Court, Tambaram, to be tried along with H.M.O.P.No.350 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Principal

Subordinate Judge, Cuddalore, is directed to transmit all the records pertaining to H.M.O.P.No.126 of 2017 to the file of the Subordinate Court, Tambaram, within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Subordinate Judge, Cuddalore.

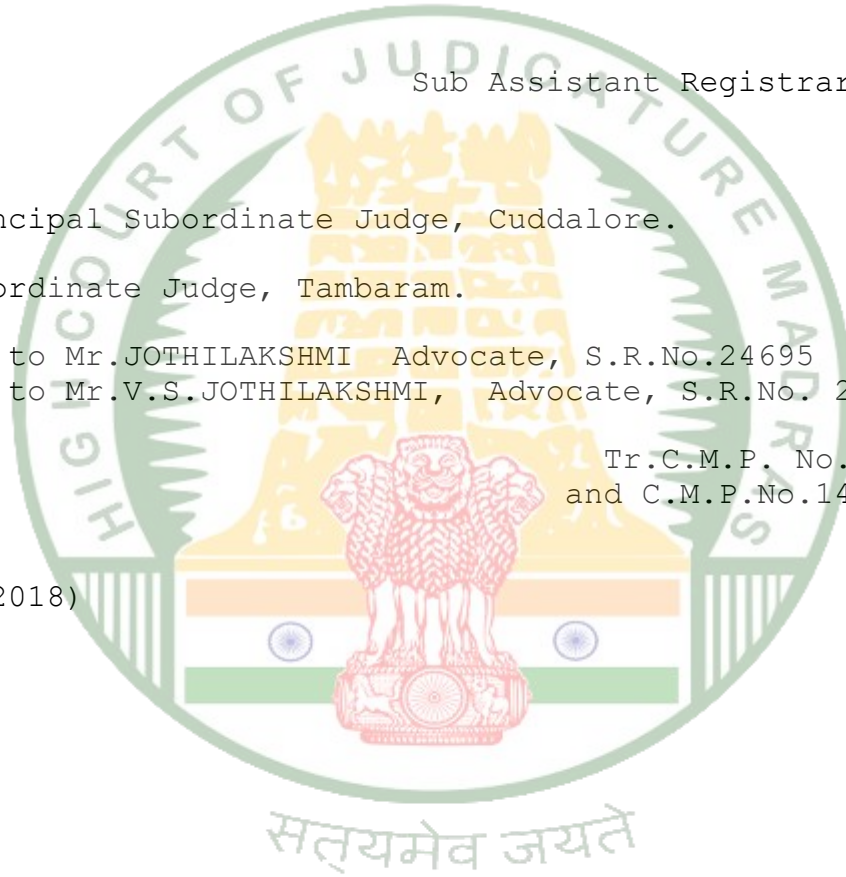
2.The Subordinate Judge, Tambaram.

+1cc to Mr.JOTHILAKSHMI Advocate, S.R.No.24695

+1cc to Mr.V.S.JOTHILAKSHMI, Advocate, S.R.No. 24397

Tr.C.M.P. No.702 of 2017
and C.M.P.No.14100 of 2017

VG II(CO)
TR(24/04/2018)



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