

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.703 of 2017
and C.M.P.No.14224 of 2017

G. Sangeetha

... Petitioner

versus

K. Gowtham

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw H.M.O.P.No.65 of 2016 from the file of the Principal Subordinate Court at Thiruvannamalai, Thiruvannamalai District and to transfer the same to Sub Court, Virudhachalam, Cuddalore District.

For Petitioner : Mr.C.Arun Kumar

For Respondent : Mr.M.Jayakumar

O R D E R

The petitioner/wife in the matrimonial dispute has filed the above Transfer Civil Miscellaneous petition, seeking transfer of H.M.O.P.No.65 of 2016, pending on the file of Principal Sub Court, Thiruvannamalai to the file of Sub Court, Virudhachalam, Cuddalore District.

2. The respondent/husband has already filed H.M.O.P.No.21 of 2015 under Section 9 of the Hindu Marriage Act, before the Sub Court, Thiruvannamalai for restitution of conjugal rights. While the same is pending, he has also filed the present H.M.O.P.No.65 of 2016 under Section 13(i-a) (i-b) & (iii) of the Hindu Marriage Act, before the Principal Sub Court, Thiruvannamalai for divorce. The above reliefs are mutually contradictory.

3. It is stated by the learned counsel for respondent/husband that though he filed a petition to withdraw H.M.O.P.No.21 of 2015, he was not permitted to withdraw. However, he has not produced any petition in this regard.

4. Admittedly, the respondent/husband is employed in Coimbatore. In paragraph 14 of the affidavit filed in support of the petition, it is stated that the petitioner is living with

her parents in Virudhachalam and her father is a pensioner. The petitioner/wife is also not having any separate income of her own. It is also stated that the wife finds it difficult to travel from Virudhachalam to Thiruvannamalai, which is approximately 100 kms. Hence, the learned counsel for the petitioner/wife sought for transfer from Sub Court, Thiruvannamalai to Sub Court, Virudhachalam.

5. The learned counsel for the respondent/husband vehemently opposed the same. He contented that even otherwise the petitioner/wife had not been attending the Court in Thiruvannamalai. Hence, he prayed for transfer of H.M.O.P to the Sub Court in Villupuram.

6. Admittedly, the respondent/husband is living in Coimbatore and the petitioner/wife is living in Virudhachalam. Even if the case is transferred to Virudhachalam or Villupuram or Thiruvannamalai, the respondent/husband has to travel from Coimbatore.

7. Section 19(iii) of the Hindu Marriage Act, which gives privilege to the wife to file a petition, where she resides. Therefore, if the H.M.O.P.No.65 of 2016 is transferred to Virudhachalam, it would not be causing any prejudice to the respondent/husband as it is only before the Sub Court, where the appearance of the parties is not mandatory. Besides, it is also pointed out that even to reach Villupuram the respondent/husband has to cross Virudhachalam. It would be easy for him to travel to Virudhachalam than to Villupuram. Therefore, considering the convenience of the parties, this Court feels it appropriate to transfer H.M.O.P.No.65 of 2016 from the file of Sub Court, Thiruvannamalai to the file of Sub Court, Virudhachalam. The Sub Court, Virudhachalam also will not insist on the appearance of the parties till the commencement of the trial or there is any necessity of the appearance.

8. With the above observations, the Transfer Civil Miscellaneous Petition is allowed by withdrawing H.M.O.P.No.65 of 2016, pending on the file of Principal Sub Court, Thiruvannamalai and transferring the same to the file of Sub Court, Virudhachalam, Cuddalore District. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rsi

To

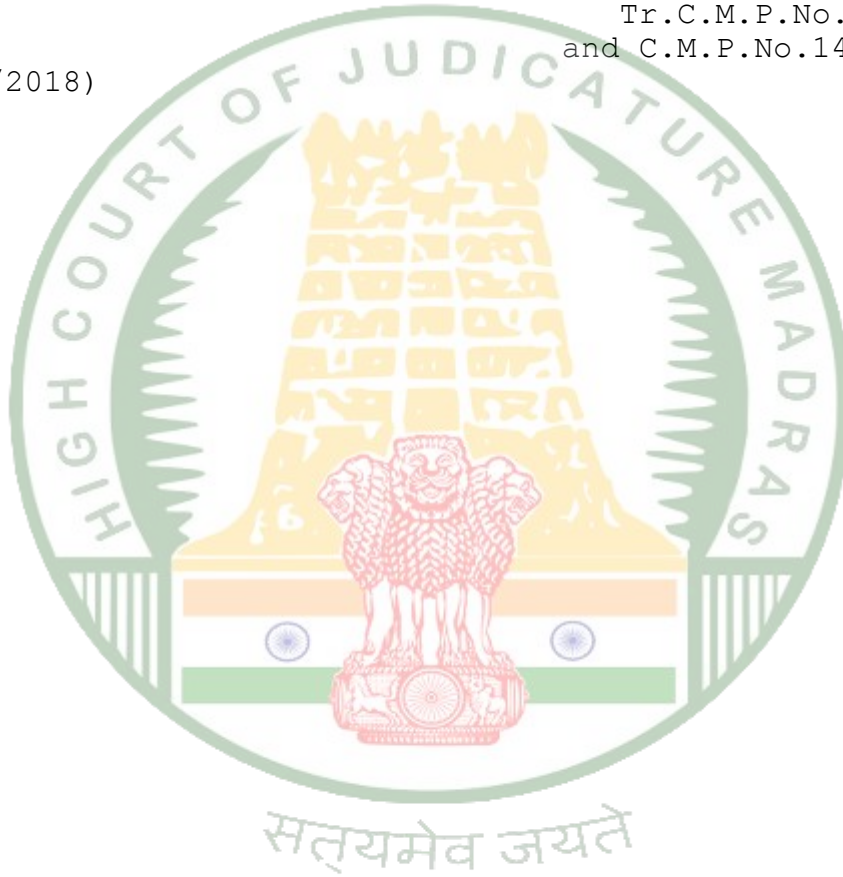
1. The Principal Sub Judge,
Thiruvannamalai.

2. The Sub Judge,
Virudhachalam,
Cuddalore District.

+lcc to Mr.C.Arunkumar, Advocate, S.R.No.2854

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RRK(12/02/2018)



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