

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2018

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.Nos.707 and 750 of 2017
and C.M.P.Nos.14306 and 15283 of 2017

Tr.C.M.P.No.707 of 2017

S.Parthiben

.. Petitioner

-Vs.-

R.Gayathri

.. Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw H.M.O.P.No.139 of 2017 now pending before the Principal Sub Court, Cuddalore and to transfer the same to the Family Court at Chennai to be tried along with O.P.No.2351 of 2017 now pending before the I Additional Principal Family Court at Chennai,

For petitioner ... Mr.R.Esakki Raja

For respondent ... Mr.B.Gopalakrishnan

Tr.C.M.P.No.750 of 2017

R.Gayathri

.. Petitioner

-vs-

S.Parthiben

.. Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C praying to withdraw H.M.O.P.No.2351 of 2017 pending on the file of the I Additional Family Court, Chennai and transfer the same to the Principal Sub Court, Cuddalore for joint trial in H.M.O.P.No.139 of 2017 pending on the file of the Principal Sub Court, Cuddalore.

For petitioner ... Mr.B.Gopalakrishnan

For respondent ... Mr.R.Esakki Raja

O R D E R

There are two transfer petitions. One is filed by the husband and the other is filed by the wife in a matrimonial dispute. The husband had filed Tr.C.M.P.No.707 of 2017 seeking transfer of H.M.O.P.No.139 of 2017 filed by the wife under Section 9 of the Hindu Marriage Act, which is pending before the Principal Sub Court, Cuddalore. Similarly, the Wife has filed Tr.C.M.P.No.750 of 2017 seeking transfer of H.M.O.P.No.2351 of 2017 filed by the husband under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for divorce, which is pending before the I Additional Family Court, Chennai.

2. In this matter, I have personally met the parties and tried to mediate and resolve the disputes between them. But, due to non-cooperation of both the parties, the same could not happen. Yet another attempt was made by referring the parties to appear before the Mediation and Conciliation Centre, High Court, Madras to settle the matter, which has also unfortunately failed.

3. The petitioner-husband in Tr.C.M.P.No.707 of 2017 has stated in his affidavit that he is not well and as per the Doctor's advise, he is working from home and therefore, he could not travel from Chennai to Cuddalore.

4. The petitioner-wife in Tr.C.M.P.No.750 of 2017 has stated in her affidavit that she is living with her parents in Cuddalore and she is also having five months old baby and it would be difficult for her to travel from Cuddalore to Chennai.

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

6. As both the parties have filed two different H.M.O.Ps seeking for the reliefs, which are mutually contradictory, it would be appropriate to try them both jointly in order to avoid any conflict in decisions.

7. Taking into consideration the convenience of the wife and also taking into account Section 19(iii-a) of the Hindu Marriage Act, which gives privilege for the wife to file a petition, where she resides, Tr.C.M.P.No.750 of 2017 filed by the wife is allowed and H.M.O.P.No.2351 of 2017 pending on the file of the I Additional Family Court, Chennai is withdrawn and transferred to the file of the Principal Sub Court, Cuddalore to be tried along with H.M.O.P.No.139 of 2017. No costs. Consequently connected miscellaneous petition is closed.

8. Consequently, Tr.C.M.P.No.707 of 2017 filed by the husband is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

srn

To

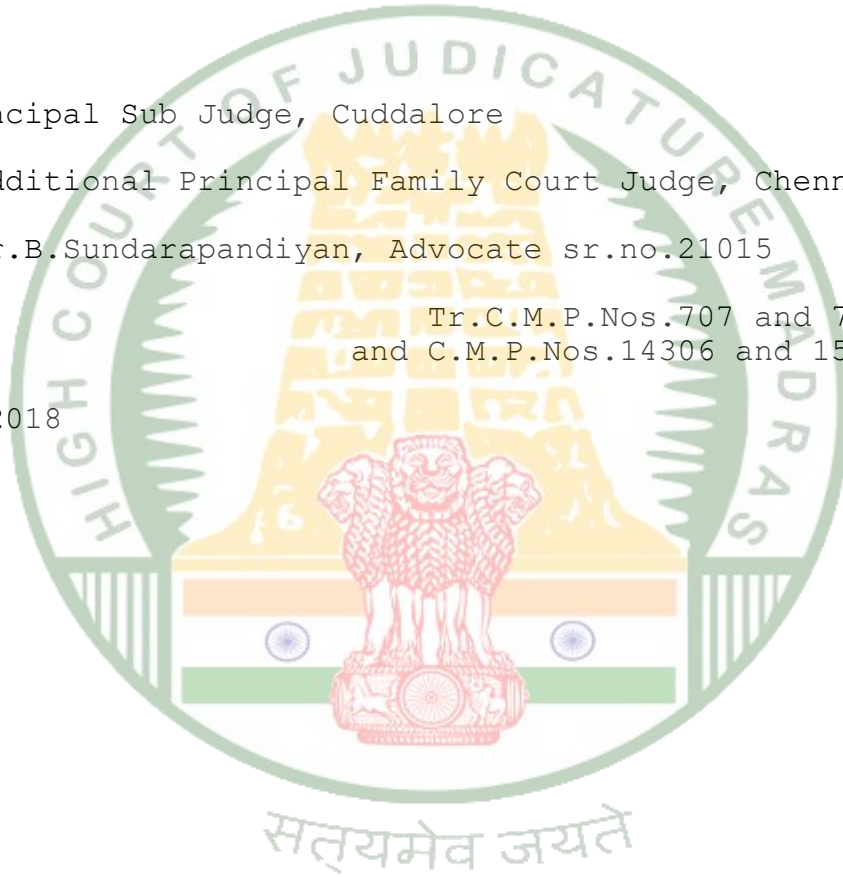
1.The Principal Sub Judge, Cuddalore

2.The I Additional Principal Family Court Judge, Chennai.

+lcc to Mr.B.Sundarapandiyar, Advocate sr.no.21015

Tr.C.M.P.Nos.707 and 750 of 2017
and C.M.P.Nos.14306 and 15283 of 2017

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