

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.805 of 2017

K.Gomathi

...Petitioner/Respondent

Versus

Kamalakannan

...Respondent/Petitioner

Prayer: Petition filed under Section 24 of the Civil Procedure Code praying to withdraw the H.M.O.P.No.74 of 2015 from the file of Additional Subordinate Judge, Kumbakonam and transfer the same to the file of Additional Subordinate Judge, Chidambaram or any other competent Court at Chidambaram to try and dispose off the same on merit and in accordance with law. '

For Petitioner : Mr. P.R.Thiruneelakandan

For Respondent : Mr.S.Kathiravan

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw H.M.O.P.No.74 of 2015 from the file of Additional Sub Judge, Kumbakonam and transfer the same to the file of Additional Subordinate Judge, Chidambaram or any competent Court at Chidambaram.

2. In the affidavit filed in support of this petition, it is stated that the marriage between the petitioner and the respondent was solemnized on 09.12.2013. As the respondent/husband has harassed the petitioner demanding dowry, the petitioner was forced to leave from the matrimonial home. Whiles, the respondent had filed the petition in H.M.O.P.No.74 of 2015, on the file of Additional Subordinate Judge, Kumbakonam under Section 13(1) (1A), which meant for divorce, but in the prayer portion he sought for the relief of restitution of conjugal rights. Refuting the same, the petitioner herein filed a detailed counter and the same is pending. It is further stated that a petition in M.C.No.1 of 2015 was filed by the petitioner/wife before the District Munsif cum Judicial Magistrate, Kattumannarkoil, seeking maintenance and the learned

Judicial Magistrate vide order dated 07.06.2016 directed the respondent to pay the petitioner a sum of Rs.7,000/- as monthly maintenance, against which, the respondent preferred the Criminal Revision Petition in Crl.R.P.No.32 of 2016, before the Principal District and Sessions Judge, Cuddalore and the same is pending. In paragraph 4 of the affidavit filed in support of this petition, it is stated that the petitioner is living with her aged parents at Kattumannarkoil and her only brother is living in foreign country and there is no other male member in her family to accompany her to travel all the way from Kattumannarkoil to Kumbakonam to attend the hearings in H.M.O.P.No.74 of 2015, filed by the respondent before the Additional Subordinate Judge, Kumbakonam. Hence, earlier she was set exparte and thereafter she moved a petition to set aside the said H.M.O.P and the same was set aside and the HMOP was restored. Again, she is facing the same problem that she could not travel from Kattumannarkoil to Kumbakonam to attend the case for each and every hearing. Therefore, she seeks for transfer of the above H.M.O.P from the file of Additional Subordinate Judge, Kumbakonam to Additional Subordinate Judge, Chidambaram or any other competent Court at Chidambaram.

4.The respondent counsel contended that distance between Kumbakonam to Jeyankondam is only 33 kms. Whereas, from Kumbakonam to Chidambaram it is 78 kms, which is more than a double the distance. However, the travel from Kattumannarkoil to Jayankondam and Kattumannarkoil to Chidambaram is only 25 kms.

5. Therefore, to suit the convenience of both the parties, this Court feels it appropriate to transfer the H.M.O.P.No.74 of 2015, from the file of Additional Subordinate Judge, Kumbakonam to the file of Subordinate Court, Jayankondam.

6. Accordingly, this Transfer Civil Miscellaneous Petition is ordered and H.M.O.P.No.74 of 2015 pending on the file of Additional Subordinate Judge, Kumbakonam is withdrawn and transferred to the file of Subordinate Court, Jayankondam. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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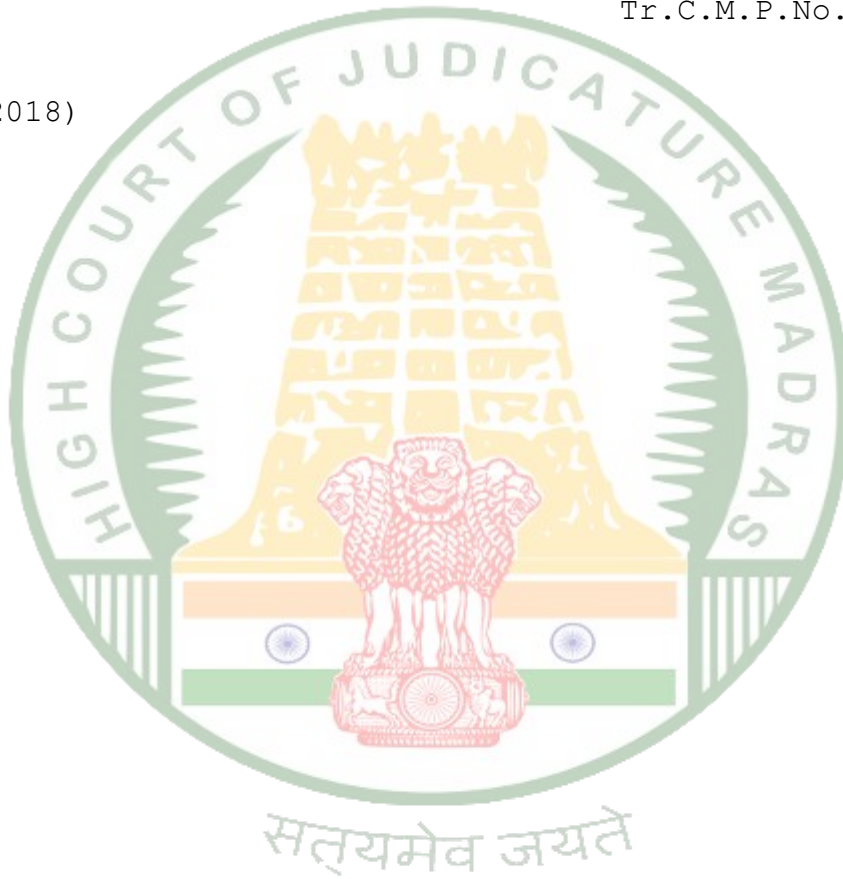
To

1. The Additional Subordinate Judge, Kumbakonam
2. The Subordinate Judge, Jeyankondam.

+1 CC to Mr.P.R. Thiruneelakandan, Advocate sr 5097.

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RSY (CO)
SP (14/02/2018)



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