

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P. No.841 of 2017
and C.M.P.No.17627 of 2017

S.Kaviya

... Petitioner

versus

S.Venkatesan

... Respondent

Prayer:- The Petition is filed under Section 24 of C.P.C. praying to withdraw the proceedings in H.M.O.P.No.288 of 2017 on the file of Subordinate Court, Tambaram and transfer the same to Subordinate Court, Dharapuram, Thiruppur District.

For Petitioner : Mr.T.Elumalai

For Respondent : Mr.A.P.Loganathan

O R D E R

The Transfer Civil Miscellaneous petition is filed by the petitioner/wife in the matrimonial dispute seeking to withdraw H.M.O.P.No.288 of 2017, pending on the file of Subordinate Court, Tambaram, and transfer the same to the file of Subordinate Court, Dharapuram, Thiruppur District.

2. The respondent/husband had filed H.M.O.P.No.288 of 2017 under Section 13(1)(i-a) of the Hindu Marriage Act, before the Subordinate Judge, Tambaram for dissolving the marriage held between the petitioner and the respondent on 15.11.2015 on the ground of cruelty. The petitioner/wife had also filed H.M.O.P.No.90 of 2017 under Section 9 of the Hindu Marriage Act, before the Subordinate Judge, Dharapuram for restitution of conjugal rights.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. In the affidavit, the petitioner/wife had expressed difficulty in travelling from Dharapuram to Tambaram for each hearing, as she is unemployed and without any means. While so, H.M.O.P.No.90 of 2017 filed by the petitioner/wife was dismissed for default on 09.11.2017, subsequently it was restored in I.A.No.1588 of 2017 on payment of cost and it is stated by the learned counsel for the respondent/husband that the same is also complied with.

5. The learned counsel appearing for the respondent/husband had also filed a memo dated 05.02.2018 consenting for the transfer of H.M.O.P.No.288 of 2017 from Subordinate Court, Tambaram to Subordinate Court, Dharapuram, to be tried along with H.M.O.P.No.90 of 2017.

6. As the O.P. filed by the respondent/husband is for divorce and the O.P. filed by the petitioner/wife is for restitution of conjugal rights, in order to avoid any conflict in decision, it would be appropriate to direct joint trial of both the cases.

7. Considering the convenience of the parties and also Section 19(iii-a) of the Hindu Marriage Act, which gives preference for the wife in respect of the place where she resides, it would be appropriate to transfer H.M.O.P.No.288 of 2017, pending on the file of Subordinate Court, Tambaram to the file of Subordinate Court, Dharapuram, to be tried along with H.M.O.P.No.90 of 2017.

8. In view of the above memorandum dated 05.02.2018 filed by the learned counsel for the respondent, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.288 of 2017, pending on the file of Subordinate Court, Tambaram shall stand withdrawn and transferred to the file of Subordinate Court, Dharapuram, to be tried along with H.M.O.P.No. 90 of 2017.

The learned Subordinate Judge, Dharapuram, is directed to dispose of H.M.O.P.No.288 of 2017 and H.M.O.P.No.90 of 2017 as expeditiously as possible. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rsi

To

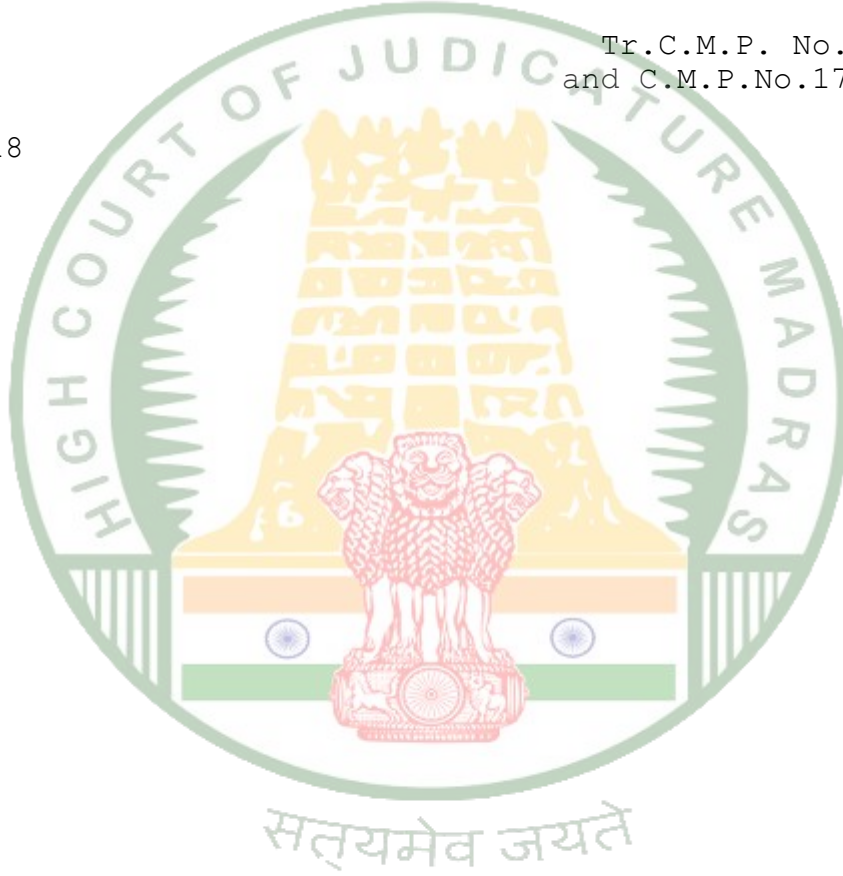
1. The Subordinate Judge,
Tambaram.
2. The Subordinate Judge,
Dharapuram, Tiruppur District.

+1cc to Mr.T.Elumalai, Advocate, S.R.No.8238

+1cc to Mr.A.P.Loganathan, Advocate, S.R.No.8205

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CS/07/02/18



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