

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.984 of 2017
and C.M.P.No.19861 of 2017

G.Venugopal

... Petitioner

Vs.

1.Manjula

2.M/s. Andhra Bank

rep. by its Branch Manager (Mylapore Branch)

No.6, North Mada Street,

Mylapore,

Chennai 600 004.

... Respondents

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.2388 of 2016 pending on the file of the XV Assistant City Civil Court, Chennai to be tried along with O.S.No.137 of 2016 pending on the file of the IV Additional Family Court, Chennai.

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For Petitioner

: Mr.R.Chandrasudan

For R-1

: Mr.A.Thiagarajan

ORDER

This petition has been filed to withdraw the suit in O.S.No.2388 of 2016 pending on the file of the XV Assistant City Civil Court, Chennai to the file of IV Additional Family Court, Chennai to be tried along with O.S.No.137 of 2016.

2.The petitioner is the husband and the first respondent is the wife. The marriage between the petitioner and respondent was conducted on 01.09.1996 as per Hindu rites and customs. After marriage, due to difference of opinion both were living separately and the first respondent filed O.P.No.2 of 2016 seeking divorce, before the I Additional Family Court, Chennai [now transferred to the file of IV Additional Family Court, Chennai]. According to the petitioner, for the welfare of their two daughters aged about 20 and 17 years respectively, the petitioner filed H.M.O.P.No.1355 of 2016, before the VII Additional Family Court, Chennai seeking restitution of conjugal rights. While so, the first respondent tried to sell a portion of the joint property purchased by the petitioner/husband and the first respondent. Therefore, the petitioner/husband filed O.S.No.137 of 2014, before the I Additional Family Court, Chennai [now pending before the IV Additional Family Court, Chennai]

seeking for permanent injunction restraining the 1st defendant and their men from dealing with the suit property and also for mandatory injunction directing the 1st respondent to release her 1/2 share in the suit property and the same is pending. In the mean while, the first respondent made an attempt to open the bank locker, which stood in their names and to take away the 100 sovereigns of jewels. Hence, the petitioner/husband filed yet another suit in O.S.No.2388 of 2016 before the XV Assistant City Civil Court, Chennai, restraining the first respondent from operating the bank locker.

3. It is the further case of the petitioner/husband that the first respondent had illegitimate relationship with one police official and on account of the same, she made number of false allegations against the petitioner/husband and filed frivolous complaints. In view of the outrageous attitude of the first respondent, the petitioner/husband withdrew the H.M.O.P.No.1355 of 2016 filed for restitution of conjugal rights and forced to file O.P.No.1388 of 2017 seeking divorce and the same is now pending before the IV Additional Family Court, Chennai.

4. It is further submitted that O.S.No.2388 of 2016 was taken

up for trial and the same is posted for evidence of the petitioner and first respondent. When summons was issued in the suit to the second respondent/bank, the bank took a stand that the suit is not maintainable before the City Civil Court, Chennai and only Family Court, Chennai has got jurisdiction to entertain the disputes arising in matrimonial cases. Hence, the petitioner/husband has come out with the present petition seeking transfer of the suit in O.S.No.2388 of 2016 pending on the file of XV Assistant City Civil Court, Chennai to be transferred to the file of IV Additional Family Court, Chennai to be tried along with O.S.No.137 of 2016.

5. Learned counsel appearing for the first respondent has no objection to transfer the O.S.No.2388 of 2016 pending on the file of XV Assistant City Civil Court, Chennai to be transferred to the file of IV Additional Family Court, Chennai and he has also made an endorsement to that effect in the bundle.

6. Heard the learned counsel for the petitioner as well as the learned counsel for the first respondent and perused the materials available on record.

7. In view of the submission of the learned counsel appearing for the first respondent and the endorsement so made, this Transfer Civil Miscellaneous Petition is ordered. The suit in O.S.No.2388 of 2016 is withdrawn from the file of XV Assistant City Civil Court, Chennai and transferred to the file of IV Additional Family Court, Chennai to be tried along with O.S.No.137 of 2016.

8. In view of the above facts and circumstances, the learned IV Additional Family Court, Chennai, is directed to dispose of the suits as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

11.04.2018

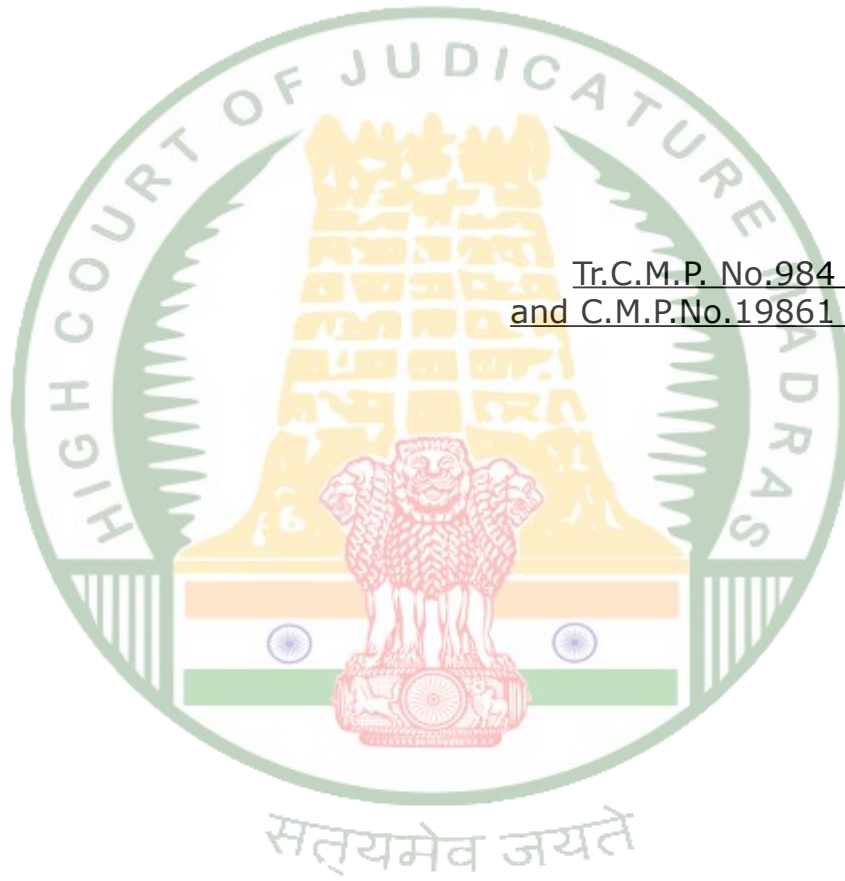
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To

- 1.The Judge, XV Assistant City Civil Court, Chennai.
- 2.The Judge, IV Additional Family Court, Chennai

V.M.VELUMANI, J.

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