

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.Nos.986 and 1046 of 2017
and C.M.P.Nos.19903 and 21242 of 2017

Tr.C.M.P.No.986 of 2017

B.Venkatesan .. Petitioner

Vs.

Y.Lavanya .. Respondent

Tr.C.M.P.No.1046 of 2017

Y.Lavanya .. Petitioner

Vs.

B.Venkatesan .. Respondent

PRAYER in Tr.C.M.P.No.986/2017: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.3533 of 2017 pending on the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Poonamallee to be tried along with H.M.O.P.No.301 of 2016.

PRAYER in Tr.C.M.P.No.1046/2017: Petition filed under Section 24 of the Civil Procedure Code, to withdraw H.M.O.P.No.301 of 2016 pending on the file of the Sub Court, Poonamallee and transfer the same to the file of the IV Additional Family Court, Chennai to be tried along with H.M.O.P.No.3533 of 2017.

(In Tr.C.M.P.No.986/2017)

For Petitioner : Mr.R.Prabakar

For Respondent : M/s.S.Mythreye Chandru
for Mr.S.K.Chandru

(In Tr.C.M.P.No.1046/2017)

For Petitioner : M/s.S.Mythreye Chandru
for Mr.S.K.Chandru

For Respondent : Mr.R.Prabakar

C O M M O R O R D E R

Tr.C.M.P.No.986/2017 has been filed by the husband to withdraw H.M.O.P.No.3533 of 2017 pending on the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Poonamallee to be tried along with H.M.O.P.No.301 of 2016.

Tr.C.M.P.No.1046/2017 has been filed by the wife to withdraw H.M.O.P.No.301 of 2016 pending on the file of the Sub Court, Poonamallee and transfer the same to the file of the IV Additional Family Court, Chennai to be tried along with H.M.O.P.No.3533 of 2017.

2.The issues and the parties involved in both the Transfer Civil Miscellaneous Petitions are one and the same and therefore, they are disposed of by this common order. The parties are referred to as husband and wife.

3.The marriage between the husband and wife was conducted on 25.05.2012 at ICF Golden Jubilee Kalyana Mandapam, ICF, Chennai 600 038 as per Hindu Rites and Customs. After marriage, both the husband and wife were residing in the matrimonial home at Korattur, Chennai 600 080. Due to difference of opinion, the wife left the matrimonial home during the month of May, 2016. The husband filed H.M.O.P.No.301 of 2016 before the Sub Court, Poonamallee for divorce. The wife filed H.M.O.P.No.3533 of 2017 before the IV Additional Family Court, Chennai for restitution of conjugal rights.

4.According to the husband, he is working in Southern Railways at Erode as Khalashi in Electrical Department. It is very sensitive department and comes under Essential Service category. He is having holiday only on Sundays and it will be very difficult for him to take leave often to attend every hearing before IV Additional Family Court, Chennai. Whereas in Sub Court, Poonamallee, both the husband and wife can represent through their respective counsel and parties can appear as and when directed by the learned Judge. In the circumstances, he has filed Tr.C.M.P.No.986/2017 to transfer H.M.O.P.No.3533 of 2017 pending on the file of the IV Additional Family Court, Chennai to the file of the Sub Court, Poonamallee, to be tried along with H.M.O.P.No.301 of 2016.

5.According to the wife, she is residing in Perambur and it is very difficult for her to travel from Perambur to Poonamallee to attend each and every hearing as she is not having any independent income. In the circumstances, she has filed Tr.C.M.P.No.1046/2017 to transfer H.M.O.P.No.301 of 2016 pending

on the file of the Sub Court, Poonamallee to the file of the IV Additional Family Court, Chennai to be tried along with H.M.O.P.No.3533 of 2017.

6.The husband made various allegations against the wife. The wife denied all the allegations made by the husband. The learned counsel for the wife contended that she is residing at Perambur and it will be very difficult for her to travel to Poonamallee to attend each and every hearing.

7.Heard the learned counsel for the husband as well as the wife and perused the materials available on record.

8.Considering the fact that husband is working at Erode in the Electrical Department and he has to take leave to attend every hearing before IV Additional Family Court, Chennai, whereas both the parties can represent through Advocate if the case is transferred to Sub Court, Poonamallee, the Tr.C.M.P.No.986 of 2017 filed by the husband is ordered and the Tr.C.M.P.No.1046 of 2017 filed by the wife is dismissed. The petition in H.M.O.P.No.3533 of 2017 is ordered to be withdrawn from the file of the IV Additional Family Court, Chennai and transferred to the file of the Sub Court, Poonamallee, to be tried along with H.M.O.P.No.301 of 2016 in the interest of justice, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The IV Additional Family Court Judge, Chennai is directed to transmit all the records pertaining to H.M.O.P.No.3533 of 2017 to the file of the Sub Court, Poonamallee, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

9.Taking into consideration the contention of the learned counsel for the wife that wife is unemployed, the husband is directed to pay a sum of Rs.300/- to the wife for attending each and every hearing before the Sub Court, Poonamallee.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsa

To

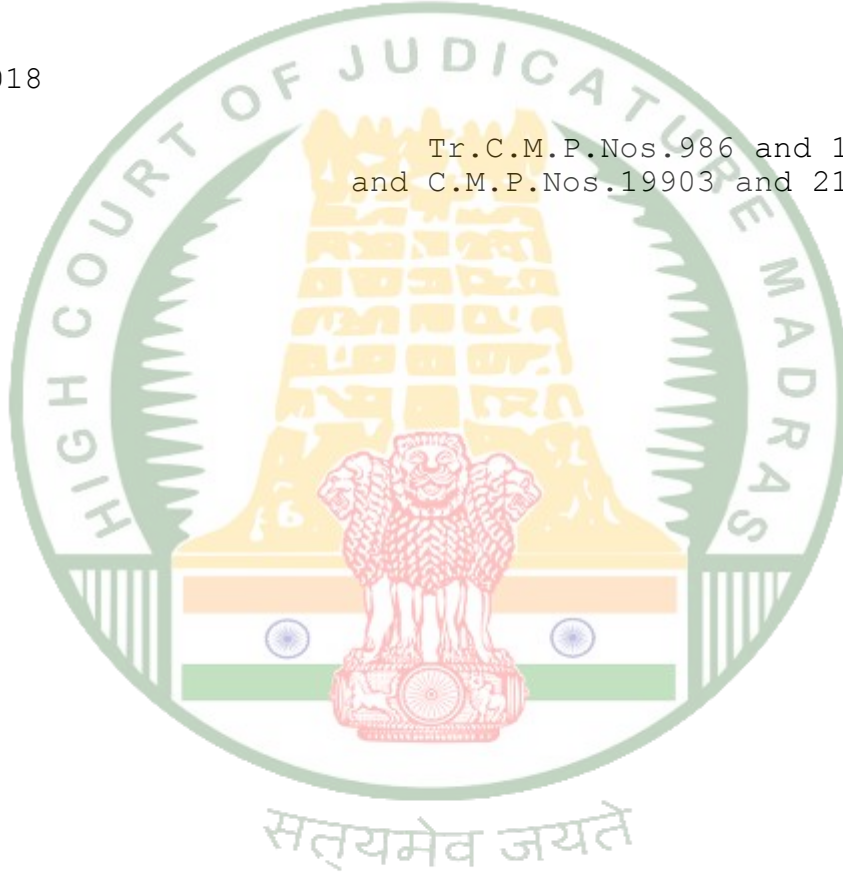
1.The IV Additional Family Court Judge,
Chennai.

2.The Subordinate Judge,
Poonamallee.

+2cc to Mr.K.Chandru, Advocate Sr.No.31080, 31081
+1cc to Mr.R.Prabakar, Advocate SR.No.31910

SS(CO)
sm:22.6.2018

Tr.C.M.P.Nos.986 and 1046 of 2017
and C.M.P.Nos.19903 and 21242 of 2017



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