

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.Nos.998 and 1057 of 2017
and
C.M.P.Nos.20178 and 21565 of 2017

Tr.C.M.P.No.998/2017

A.Ajit Daniel ... Petitioner

Vs.

A.Hema Jennifer ... Respondent

Tr.C.M.P.No.1057/2017

A.Hema Jennifer ... Petitioner

Vs.

A.Ajit Daniel ... Respondent

PRAYER in Tr.C.M.P.No.998/2017: Petition filed under Section 24 of the Civil Procedure Code, to withdraw I.D.O.P.No.138 of 2017 pending on the file of the Principal District Court at Thanjavur and transfer the same to the file of the VI Additional Family Court at Chennai.

PRAYER in Tr.C.M.P.No.1057/2017: Petition filed under Section 24 of the Civil Procedure Code, to withdraw O.P.No.3502 of 2017 pending on the file of the VI Additional Family Court at Chennai and transfer the same to the file of the Principal District Court, Thanjavur.

Tr.C.M.P.No.998/2017

For Petitioner : Mr.G.Padmanabhan

For Respondent : Mr.S.R.Shanmugadoss

Tr.C.M.P.No.1057 of 2017

For Petitioner : Mr.S.R.Shanmugadoss

For Respondent : Mr.G.Padmanabhan

C O M M O N O R D E R

Tr.C.M.P.No.998/2017 has been filed by the husband to withdraw I.D.O.P.No.138 of 2017 pending on the file of the Principal District Court at Thanjavur and transfer the same to the file of the VI Additional Family Court at Chennai to be tried along with O.P.No.3502 of 2017 on the ground that if both the cases are tried by two different Courts, conflicting judgments will be delivered.

Tr.C.M.P.No.1057 of 2017 has been filed by the wife to withdraw O.P.No.3502 of 2017 pending on the file of the VI Additional Family Court at Chennai and transfer the same to the file of the Principal District Court, Thanjavur on the ground that she has filed I.D.O.P.No.138 of 2017 before the Principal District Court, Thanjavur against the husband for divorce and as she is residing at Pattukottai, it will be difficult for her to travel from Pattukottai to Chennai for each and every hearing.

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.

3.When the matter is taken up for hearing, the learned counsel appearing for the husband submitted that O.P.No.3502 of 2017 filed by him for restitution of conjugal rights before the VI Additional Family Court, Chennai was dismissed for non-prosecution on 19.03.2018.

4.In view of the above facts, Tr.C.M.P.No.1057 of 2017 filed by the wife for transfer of O.P.No.3502 of 2017 to Principal District Court, Thanjavur has become infructuous. Hence, Tr.C.M.P.No.1057 of 2017 is dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petition is closed. It is open to the wife to file a fresh Transfer Civil Miscellaneous Petition, if O.P.No.3502 of 2017 is restored to file.

5.According to the husband, if both the I.D.O.P.No.138 of 2017 filed by the wife and O.P.No.3502 of 2017 filed by the husband are tried in two different Courts, conflicting decisions will be arrived and in order to avoid conflicting decisions, both the cases are to be tried together. In view of the fact that O.P.No.3502 of 2017 is dismissed for default, the

Tr.C.M.P.No.998 of 2017 filed by the husband for transfer of I.D.O.P.No.138 of 2017 to be tried along with O.P.No.3502 of 2017 is also dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

gsa

To

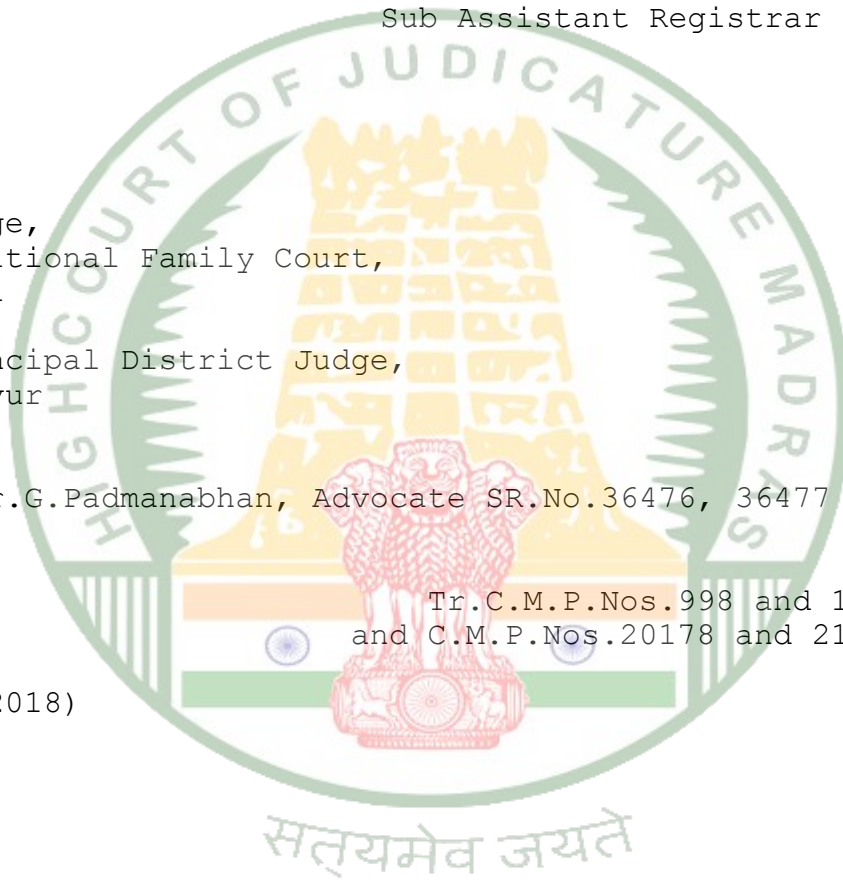
1.The Judge,
VI Additional Family Court,
Chennai

2.The Principal District Judge,
Thanjavur

+2cc to Mr.G.Padmanabhan, Advocate SR.No.36476, 36477

Tr.C.M.P.Nos.998 and 1057 of 2017
and C.M.P.Nos.20178 and 21565 of 2017

MP(CO)
GN(09/07/2018)



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