

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.20 of 2018

and

C.M.P. No.552 of 2018

Banu Govindaswamy

... Petitioner

Vs.

Rajagopal Natesan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the HMOP No. 82 of 2016 on the file of the learned Subordinate Judge, Namakkal and transfer the same to the file of the II Additional Family Court, Chennai.

For Petitioner : Mr. M. Raja Sekhar

For Respondent : Ms. G. Radhika
for M/s. H. Adaikala Arockiaraj

ORDER

This petition is filed to withdraw the HMOP No. 82 of 2016 on the file of the Sub Court, Namakkal and transfer the same to the file of the II Additional Family Court, Chennai.

2. The petitioner is the wife and respondent is the husband. Both of them

got married on 23.08.2010. Due to dispute both of them are living separately. The petitioner filed a petition in M.C. No.466 of 2013 claiming maintenance and O.P. No. 3537 of 2013 for divorce against the respondent, before the II Additional Family Court, Chennai. The petition filed for divorce was withdrawn in the year 2014 and the Maintenance petition in M.C. No.466 of 2013, is pending. Subsequently, the respondent has filed a petition for divorce in HMOP No. 82 of 2016 before the learned Subordinate Judge, Namakkal.

3. According to the petitioner, she is residing at Chennai along with her aged mother and she is suffering from knee pain and cervical problems. Due to her illness she cannot travel for more than three hours continuously. The distance between Chennai and Namakkal is more than 400 kms and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Namakkal. Further, she has to spend more than Rs.2000/- for attending every hearing before Sub Court, Namakkal. In such circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer the HMOP No. 82 of 2016 pending on the file of the learned Subordinate Judge, Namakkal to the file of the learned II Additional Family Court, Chennai.

4. The learned counsel for the respondent has filed the counter affidavit through his father as Power Agent of the respondent and submitted that the Power Agent is 75 years. If the HMOP No.82 of 2016 is transferred to Chennai from Namakkal, it will be difficult for the respondent to represent the case and

hence prayed for dismissal of this Transfer petition.

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

6. Considering the above submissions of the learned counsel for the petitioner and well settled judicial pronouncement of the Hon'ble Supreme Court in the Judgments reported in **2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta]** and **AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]**, the convenience of the wife must be given preference in matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

सत्यमेव जयते

V.M.VELUMANI,J.

7. In view of the above, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.82 of 2016 is ordered to be transferred from the learned Subordinate Judge, Namakkal to the file of the learned II Additional Family Court, Chennai, to be tried along with M.C. No. 466 of 2013, pending on its file. The learned Subordinate Judge, Namakkal, is directed to transmit all the records pertaining to HMOP No. 82 of 2016 to the file of the II Additional

Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

11.06.2018

Index: Yes/ No
Speaking order/ Non speaking order

avr

To

- 1.The Subordinate Judge, Namakkal.
- 2.The II Additional Family Court, Chennai.

Tr.C.M.P. No.20 of 2018
and
C.M.P. No.552 of 2018

11.06.2018



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C.M.P.No.4724 of 2019
in Tr.C.M.P.No.20 of 2018

V.M.VELUMANI,J.

This Civil Miscellaneous Petition is filed to modify the prayer portion in the above Tr.C.M.P as H.M.O.P.No.82 of 2017 instead of H.M.O.P.No.82 of 2016 in all the places of Tr.C.M.P.No.20 of 2018.

2.The learned counsel appearing for the petitioner submitted that the petitioner filed Tr.C.M.P.No.20 of 2018 to transfer H.M.O.P.No.82 of 2017, pending on the file of the Sub Court, Namakkal to the II Additional Family Court, Chennai and the same was allowed on 11.06.2008. By oversight, H.M.O.P number was typed as 82 of 2016 instead of 82 of 2017.

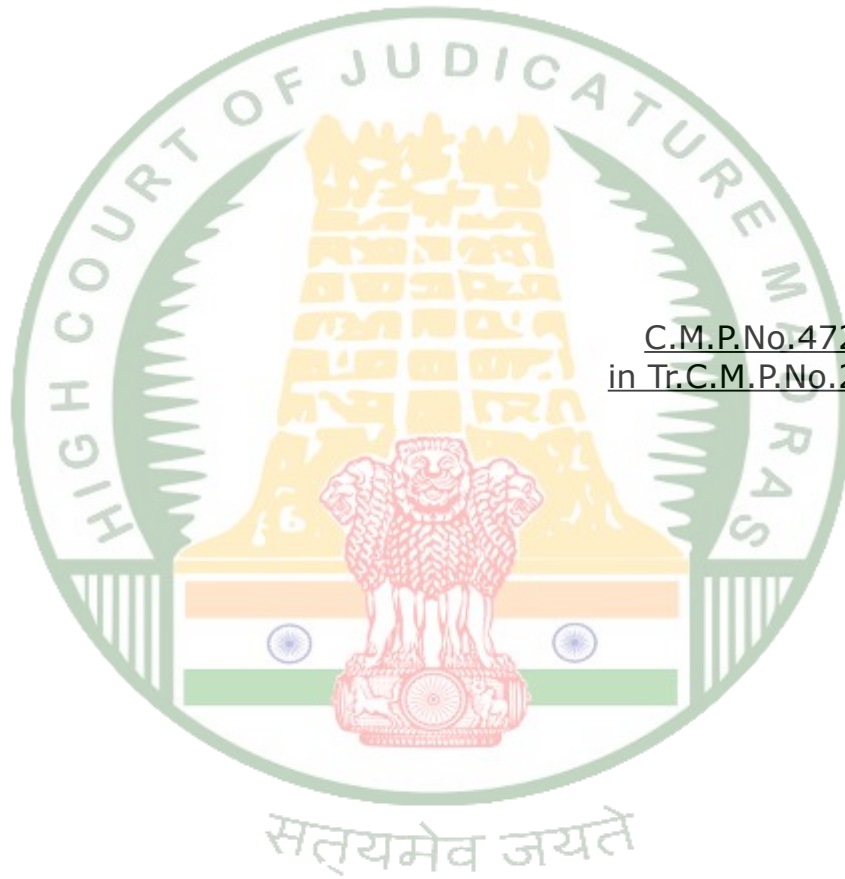
3.Recording the submission made by the petitioner, this Civil Miscellaneous Petition is ordered. Registry is directed to carry out necessary amendment in the order dated 11.06.2008 made in Tr.C.M.P.No.20 of 2018 and issue fresh order copy.

20.03.2019

gsa

V.M.VELUMANI,J.

gsa



C.M.P.No.4724 of 2019
in Tr.C.M.P.No.20 of 2018

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