

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.213 of 2018
and C.M.P.No.5444 of 2018

R.Sindhujha

.. Petitioner

Vs.

K.Vidhyakar

.. Respondent

PRAYER: This petition has been filed under Section 24 C.P.C to withdraw H.M.O.P.No.64 of 2018 pending on the file of the Sub Court, Tambaram and transfer the same to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.338 of 2018 pending on its file.

For Petitioner : Mr.K.Santhakumari

For Respondent : Mr.R.Sankar
for M/s.P.Sudalaimani

O R D E R

This Petition has been filed to withdraw H.M.O.P.No.64 of 2018 pending on the file of the Sub Court, Tambaram and transfer the same to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.338 of 2018 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between petitioner and respondent was conducted on 20.08.2015 as per Hindu Rites and Customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Adyar, Chennai. In the wedlock, a female child was born. Due to difference of opinion, both the petitioner and respondent are living separately. While so, the petitioner filed H.M.O.P.No.338 of 2018 before the II Additional Family Court, Chennai for divorce on the ground of cruelty and desertion. The respondent also filed H.M.O.P.No.64 of 2018 before the Sub Court, Tambaram for divorce on the ground of cruelty against the petitioner. The present petition is filed by the petitioner/wife for transferring H.M.O.P.No.64 of 2018 from the file of the Sub Court, Tambaram to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.338 of 2018 pending on its file. The petitioner has made various allegations against the respondent in the

affidavit filed in support of the above petition.

3.The learned counsel for the respondent denied all the allegations made by the petitioner against the respondent and submitted that he has no objection for transferring the case filed by him in H.M.O.P.No.64 of 2018 before the Sub Court, Tambaram to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.338 of 2018, provided, visitation right is granted to the respondent to see the child.

4.The learned counsel for the petitioner contended that there is ample provision for conciliation and also Child Care Centre is available in the Family Court at Chennai. If visitation right is ordered, the respondent can see the child in the Child Care Centre attached to the Family Court at Chennai. The learned counsel for the petitioner, on instructions, also submitted that the petitioner has no objection for the respondent to see the child in the Child Care Centre attached to the Family Court at Chennai on every date of hearing as the petitioner would bring the child along with her for every hearing. Hence, it is open to the respondent to see the child in the Child Care Centre.

5.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record. The petitioner also appeared before this Court.

6.Considering the above contention of the learned counsel for the petitioner as well as the respondent and also the fact that since H.M.O.P.Nos.64 of 2018 and 338 of 2018 are pending before two different Courts for the very same relief, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts, H.M.O.P.No.64 of 2018 filed by the respondent is transferred from the file of the Sub Court, Tambaram to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.338 of 2018 pending on its file.

7.The learned counsel for the petitioner on instructions has stated that the petitioner will bring the child to Family Court, Chennai on every date of hearing and respondent can visit the child in Child Care Centre attached to the Family Court, Chennai. In view of the said submission, the respondent is permitted to visit the child on every date of hearing from 11.00 a.m to 1.00 p.m.

8.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.64 of 2018 is ordered to be withdrawn from the file of the Sub Court, Tambaram and transferred to the file of the II Additional Family Court, Chennai to be tried along with H.M.O.P.No.338 of 2018 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different

Courts. The learned Subordinate Judge, Tambaram is directed to transmit all the records pertaining to H.M.O.P.No.64 of 2018 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.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge, Tambaram.

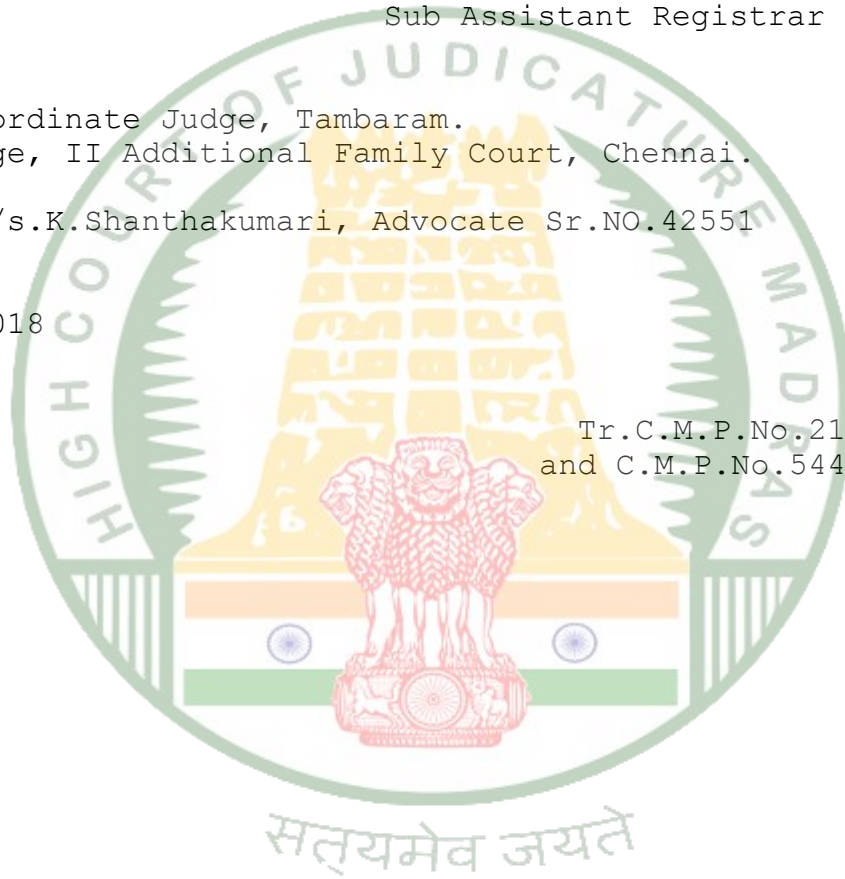
2.The Judge, II Additional Family Court, Chennai.

+lcc to M/s.K.Shanthakumari, Advocate Sr.NO.42551

MR(CO)

sm:19.7.2018

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