

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :16.08.2018
PRONOUNCED ON:23.08.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN
Tr.C.M.P.No.229 of 2018
&
C.M.P.No.5880 of 2018

R.Saranya

...Petitioner

Vs.

A.Jayakumar

...Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the F.C.O.P.No.311 of 2017 pending on the file of Family Court, Salem and transfer the same to the file of Additional District Judge, II Court, Kanchipuram to be tried along with I.D.O.P.No.4 of 2018.

For Petitioner : Mr.D.Soundar Raj

For Respondent : No appearance
Set exparte

Vide Order dated 16.08.2018

O R D E R

Petitioner is the wife. Respondent is the husband.

2. The marital life between the petitioner and the respondent is not cordial and as could be seen from the materials placed on record, the respondent has filed F.C.O.P.No.311 of 2017 against the petitioner for restitution of conjugal rights and the same is pending on the file of the Family Court, Salem. It is further seen that the petitioner has filed I.D.O.P.No.4 of 2018 for the dissolution of marriage between the parties against the respondent and the same is pending on the file of Additional District Judge, II Court, Kanchipuram.

3. It is thus found that two proceedings are pending between the parties as regards the issues between them with reference to their martial life and in such view of the matter, in the interest of justice, common adjudication is the best way of disposal of the abovesaid two proceedings by the same court as the same would avoid conflict of decisions and also would enable the parties to adduce common evidence in both the proceedings as regards the issues involved between them. On the other hand, if the proceedings are to be tried and determined by different courts, there is likelihood of the conflict of decisions and also the same would cause undue hardship to both the parties. Further, it is also noted that the parties would be required to adduce separate evidence twice in respect of the issues involved between them as regards their martial life, if the proceedings are to be adjudicated by different courts. Accordingly, it is seen that the common adjudication of both matters as above stated involved between the parties would be in the interest of justice to both parties.

4. The petitioner has also put forth a case that she would also be put to loss and hardship, if she is to travel to Salem to attend the proceeding instituted by the respondent against her. On the other hand, it is her contention that, if both the proceedings are tried by the same court, particularly at Kanchipuram, the same would be convenient to both the parties. The above reasoning adduced by the petitioner for seeking the transfer is not controverted by the respondent by entering appearance and contesting the case of the petitioner. Accordingly, it is seen that inasmuch as the respondent has no cause to dispute the transfer request of the petitioner and also he would not be prejudiced in any manner, if both the proceedings are tried at Kanchipuram, accordingly, it is found that he has not evinced interest to contest the present matter.

5. In the light of the above reasons, and in the interest of justice, F.C.O.P.No.311 of 2017 is withdrawn from the file of Family Court, Salem and transferred to the file of Additional District Judge, II Court, Kancheepuram for trying along with I.D.O.P.No.4 of 2018 preferred by the petitioner.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

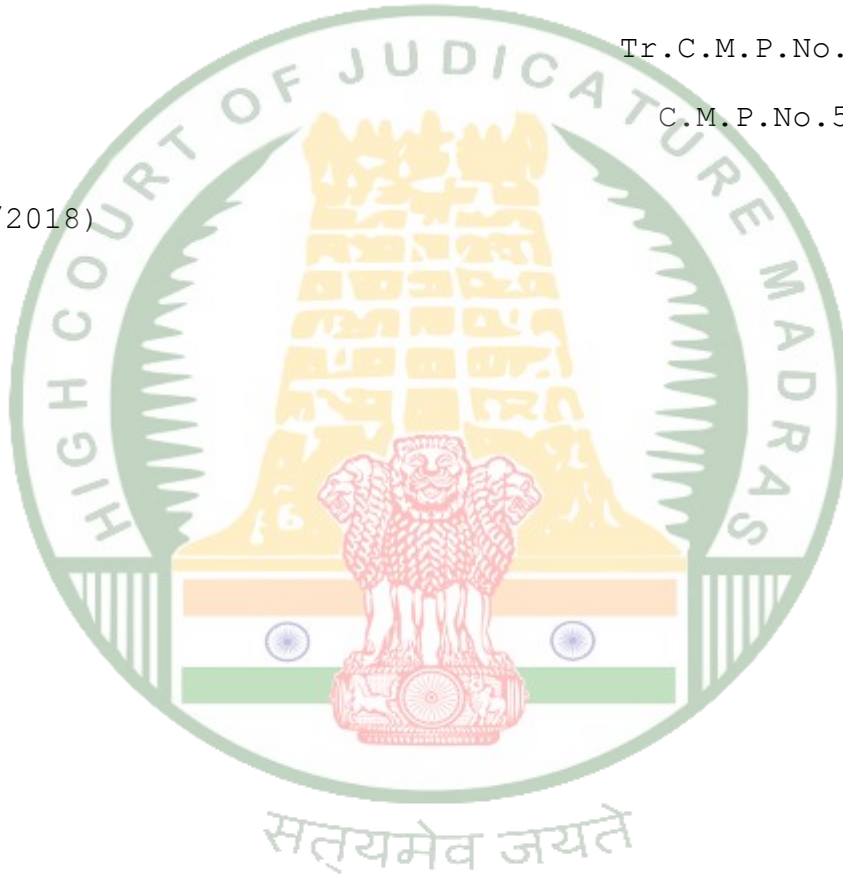
1. The Judge
The Family Court,
Salem.

2.The Additional District Judge,
II Court,
Kancheepuram.

+lcc to Mr.D.Soundar raj, Advocate, S.R.No.57836

Tr.C.M.P.No.229 of 2018
&
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GSP (07/09/2018)



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