

N IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.23 of 2018

and C.M.P.No.671 of 2018

E.K.Ranjani

... Petitioner

Vs.

Ravishankar

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1306 of 2017 pending on the file of Family Court, Coimbatore and transfer the same to the file of Sub Court, Poonamallee to be tried along with H.M.O.P.No.574 of 2017.

For Petitioner : Mr.R.Karthik

For Respondent : Mr.B.Gurunathan

ORDER

This petition is filed to withdraw H.M.O.P.No.1306 of 2017 pending on the file of Family Court, Coimbatore and transfer the same to the file of Sub Court, Poonamallee to be tried along with H.M.O.P.No.574 of 2017.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 02.05.2016 as per Hindu rites and customs. Due to difference of opinion, the petitioner and the respondent are living separately. The respondent filed H.M.O.P.No.1306 of 2017 on the file of Family Court, Coimbatore, for divorce against the petitioner. The petitioner also filed H.M.O.P.No.574 of 2017 before the Sub Court, Poonamallee, against the respondent for restitution of conjugal rights.

3.According to the petitioner, she is residing along with her parents at Thiruverkaadu, Chennai. The distance between Chennai and Coimbatore is more than 500 kilometers. Hence, it will be very difficult for her to travel to Coimbatore to attend each and every hearing. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer

H.M.O.P.No.1306 of 2017 pending on the file of Family Court, Coimbatore to the file of the Sub Court, Poonamallee to be tried along with H.M.O.P.No.574 of 2017 in order to avoid conflicting decisions being delivered by two different Courts.

4.The learned counsel for the respondent submitted that the respondent is working and residing at Bangalore and hence, it will be very difficult for him to travel from Bangalore to Chennai to attend each and every hearing and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

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

6.The contention of the learned counsel for the petitioner is that admittedly the respondent is working and residing in Bangalore and he has to travel from Bangalore to Coimbatore to attend the Court proceedings at Family Court, Coimbatore for each and every hearing. Whereas if the H.M.O.P.No.1306 of 2017 is transferred to Sub Court at Poonamallee, the respondent can represent through an Advocate and his presence is not necessary for all the hearings.

7.Considering the above contention of the learned counsel for the petitioner as well as respondent 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 the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

7.In view of the above fact, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.1306 of 2017 is ordered to be withdrawn from the file of Family Court, Coimbatore and transferred to the file of Sub Court, Poonamallee to be tried along with H.M.O.P.No.574 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Judge, Family Court, Coimbatore is directed to transmit all the records pertaining to H.M.O.P.No.1306 of

2017 to the file of 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 Petition is closed.

Sd/-

Assistant Registrar(CS VII)

// True Copy//

Sub Assistant Registrar

LPP/gsa

To

1.The Judge, Family Court, Coimbatore.

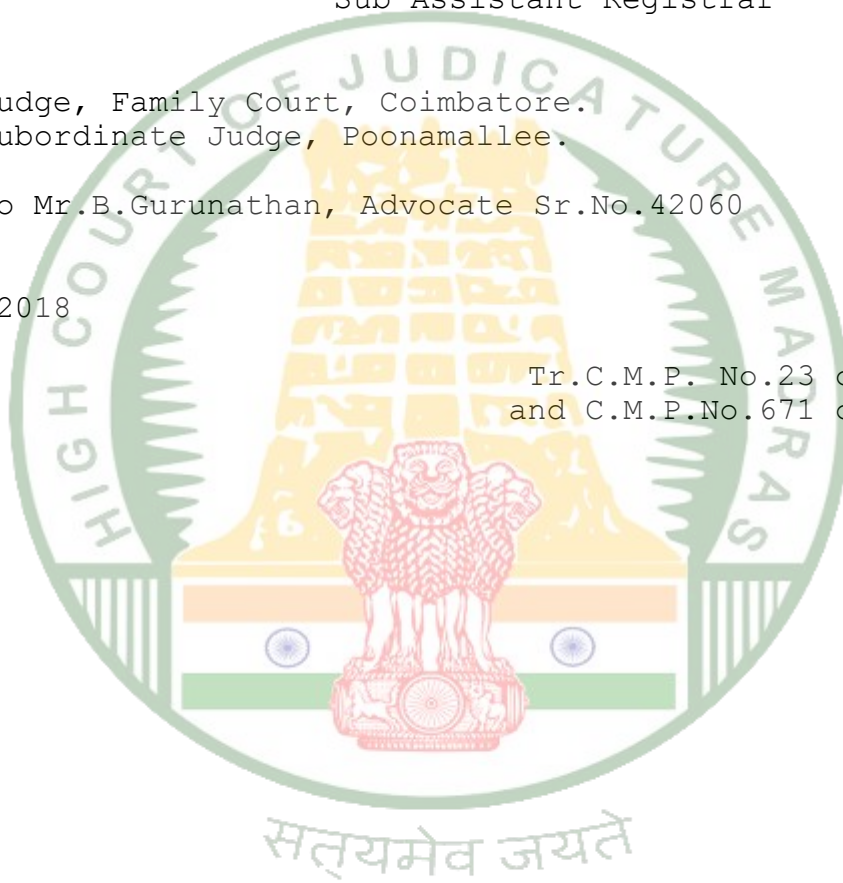
2.The Subordinate Judge, Poonamallee.

+1cc to Mr.B.Gurunathan, Advocate Sr.No.42060

CNR(CO)

sm:6.8.2018

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