

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 29.11.2018

JUDGMENT PRONOUNCED ON : 19.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.239 of 2018
and C.M.P.Nos.17312 & 6055 of 2018

Sudha ... Petitioner

Vs

M.Maraiyarasu ...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of the Civil Procedure, to withdraw the H.M.O.P.No.187 of 2017 pending on the file of the Principal Subordinate Court, Trichy and to transfer the same to the file of the Subordinate Court at Poonamallee.

For Petitioner : Mr.V.Sundar Raman for
A.Lakshmi Rajarathnam

For Respondent : Mr.S.Viswagandhi

O R D E R

This Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P.No.187 of 2017, pending on the file of the learned Principal Subordinate Judge, Trichy and to transfer the same to the Subordinate Court at Poonamallee, for disposal according to law.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was admitted. When, the respondent is at Singapore he has filed this petition before the Subordinate Court, Trichy, seeking the relief of dissolution of marriage happened between the petitioner and the respondent. The said application filed by the respondent is now pending on the file of the learned Principal Subordinate Judge, Trichy, in H.M.O.P.No.187 of 2017.

3. Apart from the above case, the respondent and his family members facing one another case, before the Judicial Magistrate Court, No.1, Ambattur, in C.C.No.99 of 2016. The said case has

also related to the dispute arising between the petitioner and the respondent. In the said circumstances, the petitioner approached this Court and praying to transfer the proceedings of H.M.O.P.No.187 of 2017 from the file of the Principal Subordinate Court, Trichy, to the file of the Subordinate Court, Poonamallee.

4. Initially, on 23.08.2018, since the respondent is not appearing before this Court, an ex parte order was passed against him and consequently, the petition filed by the petitioner is allowed. Subsequent to passing the said order, the respondent filed a Civil Miscellaneous Petition in 17311 of 2018 praying to set aside the ex parte order dated 23.08.2018. Since, the respondent in the above application had not raised any objection, the petition filed by the respondent was allowed and thereafter, the main Transfer Civil Miscellaneous Petition No.239 of 2018 is came up before this Court for an enquiry.

5. During the time of an enquiry, the learned counsel appearing for the petitioner would contend that, as per the previous order passed by this Court, the case records are transmitted to the Subordinate Court, Poonamallee, and the same have been taken on file as H.M.O.P.No.747 of 2018. The memo filed by the petitioner to that effect is recorded.

6. In the said circumstances, it is to be decided whether the petition filed by the petitioner is allowable or not. In this case, it is relevant to refer to the Judgment of the Honourable Apex Court 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]. In the above Judgments, our Honourable Apex Court has observed that, 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 the residence of wife must be taken into account.

7. It is needless to say, as of now the petitioner was residing with her parents within a jurisdiction of the Subordinate Court, Poonamallee. The said fact was not disputed on the side of the respondent. Apart from that, as per the earlier order passed by this Court, now the case, required to be transferred from the Subordinate Court, Trichy, has already been transferred to the Sub Court, Poonamallee. Moreover, the petitioner being a lady, it is very difficult to attend the Court proceedings in Trichy, since, the distance between Trichy and Poonamallee is nearly 400 Kilo Meters. Accordingly, prayer sought for by the petitioner is already granted in favour of the petitioner and in this regard, further order is not necessary.

8. Hence, this petition is disposed off. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Subordinate Judge, Trichy.

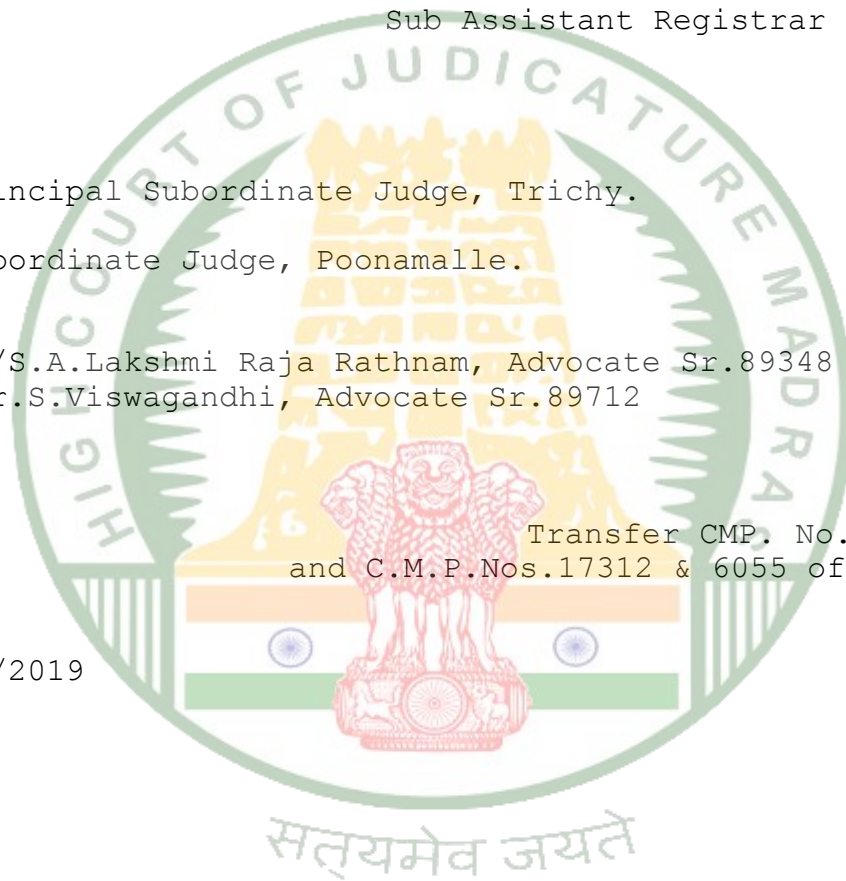
2. The Subordinate Judge, Poonamalle.

+1cc to M/S.A.Lakshmi Raja Rathnam, Advocate Sr.89348

+1cc to Mr.S.Viswagandhi, Advocate Sr.89712

Transfer CMP. No.239 of 2018
and C.M.P.Nos.17312 & 6055 of 2018

rsv[co]
srg 30/01/2019



WEB COPY