

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.305 of 2018
and C.M.P.No.7716 of 2018

G.Gayathri

... Petitioner

Vs.

P.Jagan

... Respondent

Prayer: Petition is filed under Section 24(b)(ii) of C.P.C., to withdraw G.W.O.P.No.5 of 2018 pending on the file of the Principal District Court, Vellore and transfer the same to the file of the VII Additional Family Court, Chennai.

For Petitioner : Mr.P.Raja
For Respondent : No Appearance

O R D E R

This petition is filed to withdraw G.W.O.P.No.5 of 2018 pending on the file of the Principal District Court, Vellore and transfer the same to the file of the VII Additional Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 10.03.2008. In the wedlock, a male child was born on 20.11.2008. Due to difference of opinion, both of them are living separately. While so, the petitioner filed H.M.O.P.No.232 of 2015 on the file of the III Additional Family Court, Chennai against the respondent for dissolution of marriage, which was subsequently transferred to VII Additional Family Court, Chennai and the same is pending. The respondent entered appearance in H.M.O.P.No.232 of 2015 and filed counter statement. The respondent also filed two applications in I.A.No.2925 of 2016 for visitation right and I.A.No.968 of 2017 for interim custody of minor son for two weeks, during vacation. In I.A.No.2925 of 2016, an order was passed on 15.03.2017, permitting the respondent to have visitation right on second and fourth Saturday of every month at the Child Centre, Family Court Premises, Chennai between 10.00 a.m to 12.30 p.m.

2(a).The petitioner has also filed M.C.No.214 of 2017,

claiming maintenance against the respondent and the same is pending before the II Additional Family Court, Chennai. While so, the respondent with a view to harass the petitioner, filed G.W.O.P.No.5 of 2018 on the file of the Principal District Court, Vellore for custody of minor son.

3. According to the petitioner, she is working and residing at Chennai. The minor son is residing at Chennai along with her within the jurisdiction of Court at Chennai. The distance between Chennai and Vellore is 135 kilometers. It will be very difficult for her to travel such a long distance to attend each and every hearing along with the minor son. The petitioner has also stated that the evidence to be let in by both the parties in H.M.O.P.No.232 of 2015, M.C.No.214 of 2017, as well as in G.W.O.P.No.5 of 2018 are one and the same and therefore, prayed for transfer of G.W.O.P.No.5 of 2018 pending on the file of the Principal District Court, Vellore to the file of the VII Additional Family Court, Chennai.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent and his name is printed in the cause list on 13.06.2018, there was no representation on behalf of him and today also there is no representation for him either in person or through counsel.

5. According to the petitioner, she is working and residing in the PWQ Railway Quarters allotted to her at Ayanavaram, Chennai. The H.M.O.P.No.232 of 2015 filed by her is pending on the file of the VII Additional Family Court, Chennai and M.C.No.214 of 2017 is pending on the file of the II Additional Family Court, Chennai. On the application filed by the respondent, he was given visitation right. The minor is residing with the jurisdiction of the Family Court, Chennai. The interest of minor is paramount consideration to decide the issue in G.W.O.P.No.5 of 2018.

6. In view of the fact that minor is residing along with the petitioner and the interest of the minor is paramount consideration while considering the petition for custody of minor, the petition in G.W.O.P.No.5 of 2018 is ordered to be withdrawn from the file of the Principal District Court, Vellore and transferred to the file of the VII Additional Family Court, Chennai to be tried along with H.M.O.P.No.232 of 2015 filed by the petitioner in order to avoid multiplicity of proceedings. The learned Principal District Judge, Vellore is directed to transmit all the records pertaining to G.W.O.P.No.5 of 2018 to the file of the VII Additional Family Court, Chennai within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

LPP/gsa

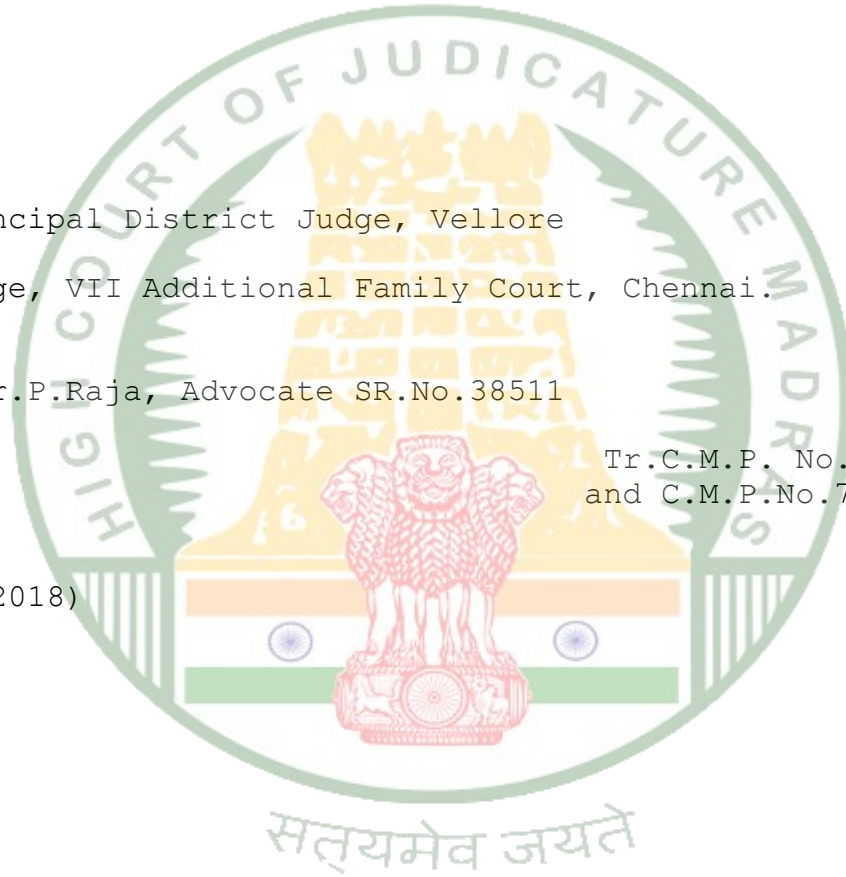
To

1. The Principal District Judge, Vellore
2. The Judge, VII Additional Family Court, Chennai.

+1cc to Mr. P. Raja, Advocate SR.No.38511

Tr.C.M.P. No.305 of 2018
and C.M.P.No.7716 of 2018

VGII (CO)
GN (07/08/2018)



WEB COPY