

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.357 of 2018  
and C.M.P.No.9769 of 2018

A.G.Hajira

... Petitioner

Vs.

Mohammed Niyazi

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw O.S.No.218 of 2016 pending on the file of District Munsif Court, Panruti and transfer the same to the file of Principal District Court, Chengalpattu, to be tried along with G.W.O.P.No.20 of 2016 pending on its file.

For Petitioner : M/S.Akhil Akbar Ali Associates

For Respondent : Mr.S.Ravi

O R D E R

This petition is filed to withdraw O.S.No.218 of 2016 pending on the file of District Munsif Court, Panruti and transfer the same to the file of Principal District Court, Chengalpattu, to be tried along with G.W.O.P.No.20 of 2016 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 26.02.2012 as per Muslim rites and customs. In the wedlock, a male child was born on 29.06.2013. Due to difference of opinion, the petitioner and respondent are living separately. The respondent filed O.S.No.218 of 2016 on the file of District Munsif Court, Panruti, against the petitioner for restitution of conjugal rights knowing fully well the respondent has given false address of the petitioner in the suit and obtained exparte order. The petitioner filed I.A.No.76 of 2017 in O.S.No.218 of 2016 to set aside the exparte order and exparte order was set aside. Now O.S.No.218 of 2016 is pending before District Munsif

Court, Panruti. The respondent also filed G.W.O.P.No.20 of 2016 before Principal District Court, Chengalpattu, seeking custody of the minor child and visitation right. The petitioner filed F.C.M.M.O.P.No.2 of 2017 for dissolution of marriage before Family Court, Dharmapuri and the said O.P. was decreed exparte. The respondent has not filed any application to set aside the exparte decree.

3. According to the petitioner, she has now shifted her residence from Harur to Old Pallavaram and at present, she is working and residing at Chennai. The distance between Chennai and Panruti is more than 120 kilometers and hence, it will be very difficult for her to travel such a long distance to attend the Court proceedings at Panruti. She further stated that the issues involved in O.S.No.218 of 2016 and G.W.O.P.No.20 of 2016 are inter-linked. In the circumstances, she has come out with the present Transfer Petition for transfer of O.S.No.218 of 2016 pending on the file of District Munsif Court, Panruti, to the file of Principal District Court, Chengalpattu, to be tried along with G.W.O.P.No.20 of 2016 pending on its file.

4. The learned counsel for the respondent filed counter and contended that the respondent is working and residing in United Kingdom. He is appearing through his power agent and it will be very difficult for the power agent to appear before the Court at Chengalpattu, for each and every hearing. Further, the Court at Chengalpattu, is not having jurisdiction to decide the suit and prayed for dismissal of Transfer Petition.

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

6. From the records, it is seen that G.W.O.P.No.20 of 2016 filed by the respondent is pending before Principal District Court, Chengalpattu and he is conducting the case through his power agent. In the circumstances, it will not be difficult for the power agent to attend the Court at Chengalpattu.

7. Considering the above contentions of the learned counsel for the petitioner as well as the 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.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The suit in O.S.No.218 of 2016 is ordered to be withdrawn from the file of District Munsif Court, Panruti and transferred to the file of Principal District Court, Chengalpattu. The learned District Munsif, Panruti, is directed

to transmit all the records pertaining to O.S.No.218 of 2016 to the file of Principal District Court, Chengalpattu, 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 VIII)

//True Copy//

Sub Assistant Registrar

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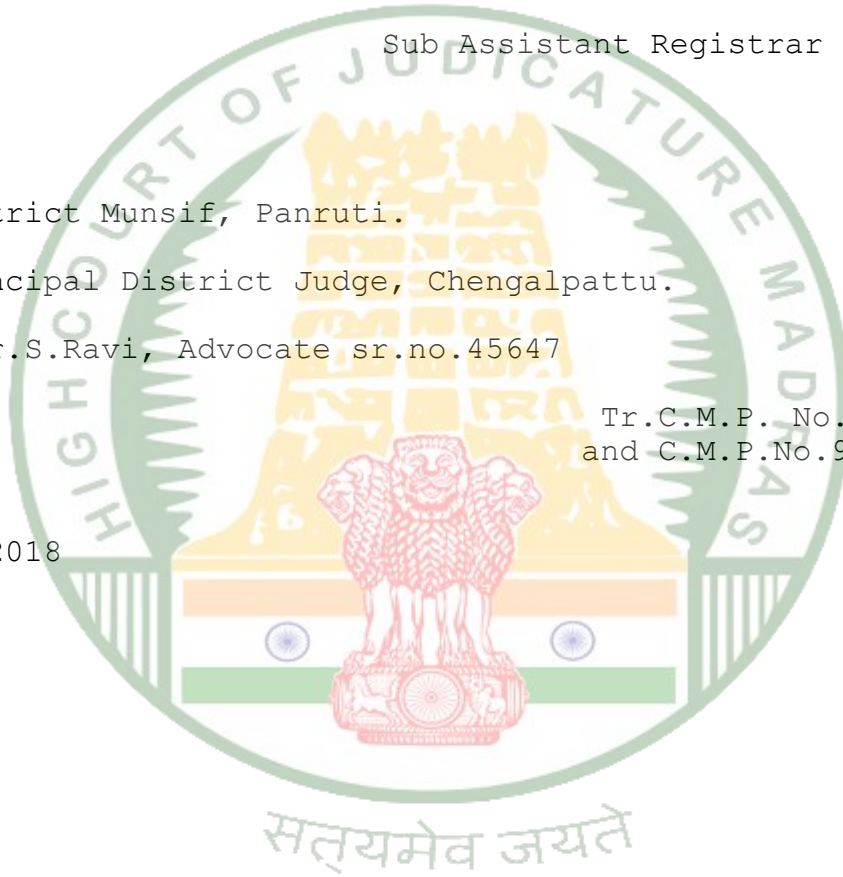
1.The District Munsif, Panruti.

2.The Principal District Judge, Chengalpattu.

+1cc to Mr.S.Ravi, Advocate sr.no.45647

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