

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.09.2018
PRONOUNCED ON:11.09.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.62 of 2018
and
C.M.P.No.1616 of 2018

M.Shalini

...Petitioner

Vs.

S.Gopinath

...Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.172 of 2017 from the file of the Sub Court, Tirupattur and transfer it to the file of any family Court at Villupuram.

For Petitioner: Mr.R.Srinivas

For Respondent: Mr.S.V.Karthikeyan

O R D E R

The petitioner is the wife. The respondent is the husband.

2. The respondent has laid H.M.O.P.No.172 of 2017 against the petitioner for restitution of conjugal rights and the same is pending on the file of the Subordinate Court, Tirupattur. The petitioner has come forward with the transfer of the abovesaid proceeding to Villupuram Court on the footing that the distance between Villupuram and Tirupattur is on the higher side and she would be put to inconvenience and hardship, if she were to be directed to attend the said proceeding at Tirupattur Court. Further, she would also state that she has to look after her tender child. For the reasons aforestated, the petitioner has sought for the transfer.

3. The respondent would contend that the petitioner has sought for the transfer only to put him to loss and hardship and according to the respondent, the continuation of the proceeding at Tirupattur court would not be in any manner prejudicial to the interest of the petitioner and further according to him, the presence of the petitioner may not be required on all the

hearing dates of the proceeding and therefore the petitioner's request for transfer should be discountenanced.

4. As rightly put forth by the respondent's counsel, considering the nature of the proceeding pending between the parties at Tirupattur court, it is found that the presence of the petitioner may not be required at all the hearing dates. The petitioner being represented by an able advocate, as per the instructions received from the petitioner now and then, her advocate would be able to attend the other hearing dates of the proceeding at Tirupattur court. At the most, the petitioner's presence would be required only on the hearing date, when her evidence is to be recorded in support of her case. Therefore, the contention of the petitioner that she would be put to loss and hardship in travelling to Tirupattur court as such cannot be accepted readily.

5. It is not the case of the petitioner that the court at Tirupattur is not having the jurisdiction to try and determine the abovesaid proceeding laid by the respondent as above noted.

6. During the course of arguments, the respondent's counsel would contend that the petitioner is employed at Chennai and therefore her request of transfer the proceeding from Tirupattur court to Villupuram is not justifiable. However, the abovesaid fact is controverted by the petitioner's counsel.

7. In the light of the above factors as argued by the respective counsel, the petitioner is experiencing certain inconvenience and hardship in attending the proceeding at Tirupattur court. Similarly, the respondent also put forth certain inconvenience and hardship in attending the proceeding at Villupuram court.

8. The petitioner's counsel in support of his case, placed reliance upon the Order of this Court dated 30.08.2006 passed in Tr.C.M.P.Nos.138 & 139 of 2006 [Usha @ Ramalakshmi Vs. P.Shanmugam] and the same is taking into consideration as applicable to the case at hand.

9. Considering the above factors, in the interest of both the parties, in my considered opinion, if the proceeding is tried at a midway court, no one will be prejudiced thereby. Accordingly, taking into consideration of all the factors, the H.M.O.P.No.172 of 2017 is withdrawn from the file of the Subordinate Court, Tirupattur and transferred to the file of Principal Subordinate Court, Thiruvannamalai for disposal according to law.

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

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

mfa

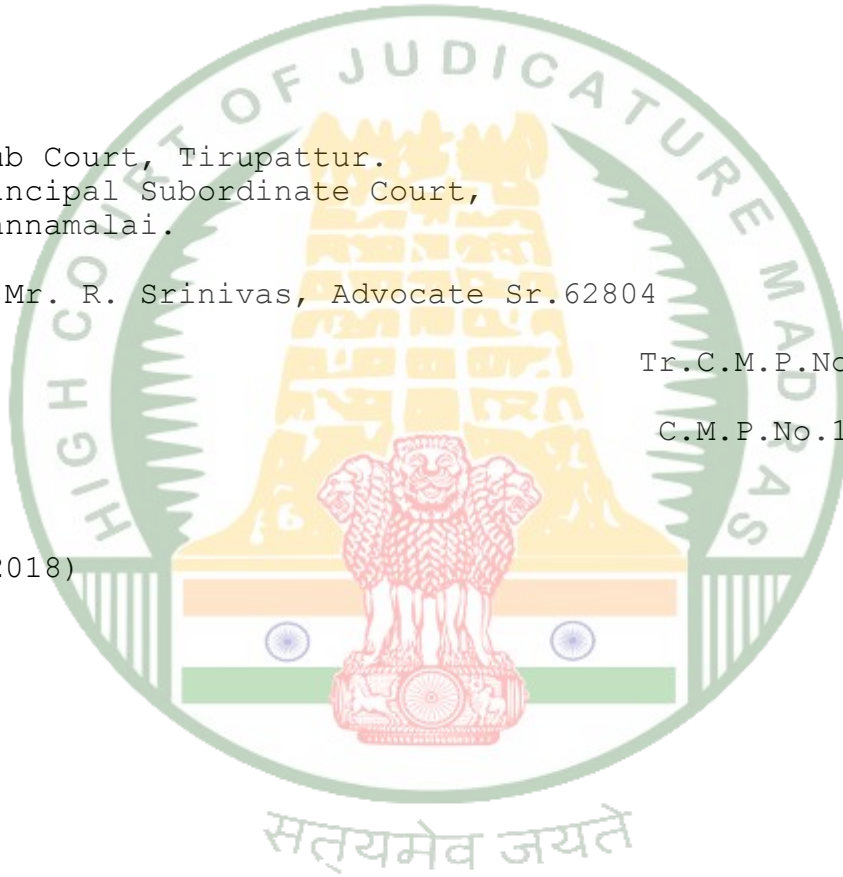
To

1. The Sub Court, Tirupattur.
2. The Principal Subordinate Court,
Thiruvannamalai.

+ 1 cc to Mr. R. Srinivas, Advocate Sr.62804

Tr.C.M.P.No.62 of 2018
and
C.M.P.No.1616 of 2018

(CS-IV)
EU(25/09/2018)



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