

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.692 of 2018 &  
CMP No.17090 of 2018

Mrs. Sujitha

Petitioner / Respondent

Vs

Mr. Shyam Sundar

Respondent / Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure with a prayer to withdraw the H.M.O.P.No.185 of 2018 from the file of the Subordinate Court, Kumbakonam and to transfer the same to the file of Subordinate Court, Ponneri, Thiruvallur District to be tried jointly along with HMOP NO. 197 of 2018.

For Petitioner : Mr.R. Munuswamy

For Respondent : No appearance

O R D E R

The Petitioner Sujitha, daughter of L. Vijayakumar is a legally wedded wife of husband Syam Sundar. Their marriage was solemnized on 10.02.2016 as per the Hindu rites and customs at A.K.S. Thirumana Mandapam, Upplipalayam Koil Street, Thirunageshwaram Village, Kumbakonam Taluk, Thanjore District. After the marriage, both of them lived together in the matrimonial home at Kumbakonam, wherein the mother-in-law of the petitioner ill-treated the petitioner even for the petty reasons. In the meanwhile, the respondent got employment as Safety Officer in South Arabia during 2016 and he went away for attending the employment.

2) After three months, he returned to India and resided with the petitioner in Door No. 2/352, 2<sup>nd</sup> Floor, Avvfaiyar Street, M.A. Nagar, Red Hills, Chennai. Thereafter, she got pregnant and when at the time of her advanced stage of pregnancy, she vacated the rented house and joined with her parents. Finally, she gave birth to a female child on 11.09.2007. After gave birth to S. Lekshana, the respondent frequently visited her parents home and during the month of February 2018, he had stopped to visit the petitioner and her child. Further, on 08.07.2018, he sent an advocate notice with vexatious allegations and the same was suitably replied by the petitioner on 17.07.2018, for which the respondent issued a

rejoinder dated 21.07.2018. As a result of which, she filed an application before the Subordinate Court, Ponneri vide HMOP No. 197 of 2018 for restitution of conjugal rights. In the mean time, the respondent has also filed another one application in HMOP No.185 of 2018 pending on the file of of Subordinate Court, Kumbakonam. After numbering this application, this Court ordered to issue notice to the respondent through Court as well as through private Notice by the petitioner. The notice sent to the respondent by this Court was returned by mentioning the reason "refused". Further, on going through the affidavit of service filed by the petitioner, the notice sent to the respondent by the petitioner is also returned as "refused".So, endorsement made in the postal covers will clearly prove that the respondent is an adamant to receive the summons issued to him. So, it is presumed that the respondent is not having any objection to allow this application.

3) Further more, as per the averments made in the petitioner, the petitioner being the wife, residing at Door No.3/325, II Floor, Va.Vu.C. Street, M.A. Nagar, Red Hills, Thiruvallur District, prayed to transfer the case in H.M.O.P.No.185 of 2018 from the file of the Subordinate Court, Kumbakonam and to transfer the same to the file of Subordinate Court, Ponneri, Thiruvallur District to be tried jointly along with HMOP NO. 197 of 2018.

4) In the said circumstances, observing the principles of our Honourable Apex Court, it was held that Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta reported in 2008(9) SCC 353 and in Sumita Singh Vs. Kumar Sanjay and another reported in AIR 2002 SC 396, the convenience of the wife must be taken into account.

5) Accordingly, the Transfer civil Miscellaneous Petition is ordered. The case in H.M.O.P.No.185 of 2018 is ordered to be withdrawn from the file of Subordinate Court, Kumbakonam and to be transferred to the Subordinate Court, Ponneri, Thiruvallur District, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the Subordinate Judge, Ponneri, Thiruvallur District is directed to conduct the trial along with the case in HMOP NO. 197 of 2018 and dispose the cases as expeditiously as possible. No costs. The connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vrn

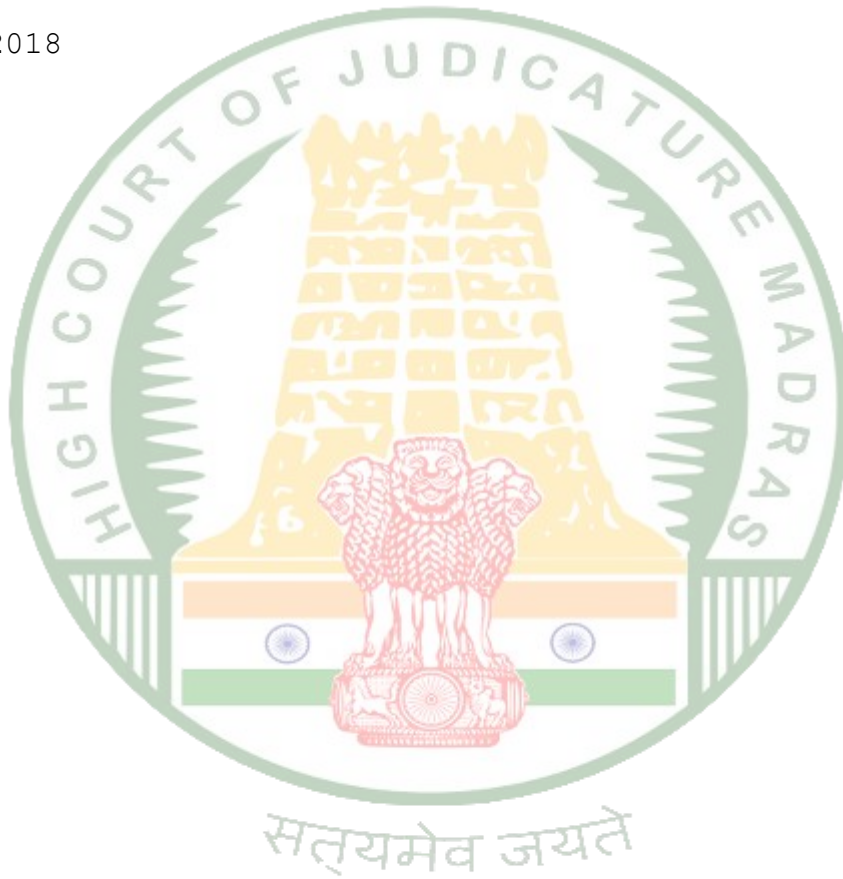
To

1. The Subordinate Court, Kumbakonam
2. The Subordinate Court, Ponneri, Thiruvallur District

+1cc to Mr.R. Munuswamy, Advocate sr.no.76998

Transfer CMP No.692 of 2018

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