

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 29.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.738 of 2018 &
CMP No.18002 of 2018

K. Krithika Petitioner / Respondent

Vs

C. Yuvaraj Respondent / Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure with a prayer to withdraw the case in O.P.No.3649 of 2018 on the file of VI Additional Family Court, Chennai and to transfer the same to the Subordinate Court, Tambaram to try along with the case in HMOP No.377 of 2018.

For Petitioner : Ms. Suganya for Mr. Suresh

For Respondent : No appearance

O R D E R

This Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure with a prayer to withdraw the case in O.P.No.3649 of 2018 on the file of VI Additional Family Court, Chennai and to transfer the same to the Subordinate Court, Tambaram to try along with the case in HMOP No.377 of 2018.

2. The Petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 15.11.2015 at Sri Guru Ragavendra

Premavathy Mahal, Kovilampakkam, Chennai - 600 117, as per the Hindu Rites and Customs. After the marriage, the petitioner and the respondent were living in the matrimonial home at Chennai. In the mean time, due to the difference of opinion, the petitioner and the respondent are living separately. The respondent filed the petition under Section 9 of Hindu Marriages Act, 1955 before the Family Court, Chennai and the same was now pending with VI Additional District Family Court, Chennai. The petitioner filed another petition under Section 13(i) (i-a) of Hindu Marriage Act 1955, in which she seeks relief of dissolving the marriage and the same was now pending with Subordinate Judge, Tambaram. In the above petitions, both the petitioner and the respondent are making various allegations against each other.

3. According to the petitioner, she is residing at CIT Nagar, Chennai along with her parents. The distance between her residence and Chennai is more than 20 kms and being a lady, it is very difficult for her to go to Chennai for attending the Court proceedings. Further, she is not having any independent income and she is depending upon her parents for her day to day expenses and travelling expenses.

4. In respect to the respondent, on 27.11.2018, when the petition is taken up for consideration, since the respondent is not appeared before this Court, this Court directed the Registry to post the matter under the caption of "Orders" and listed today. Even after printing the name of the respondent in the cause list and posted under the caption of "Orders", the respondent is not appeared before this Court either personally or through Advocate.

5. Hence, considering the contention raised by the learned Counsel and on going through the well settled provisions in the Judgment 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, for deciding the issue raised in this application, the convenience of the wife must be taken into account.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The case in O.P.No.3649 of 2018 is ordered to be withdrawn on the file of VI Additional Family Court, Chennai and ordered to be transferred the same to the file of Subordinate Court, Tambaram for trying together with the case in HMOP No.377 of 2018, filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned VI Additional

Family Judge, Chennai is directed to transmit all the records pertaining to the case in O.P.No.3649 of 2018 to the file of Subordinate Court, Tambaram, within a period of two weeks from the date of receipt of copy of this order. On receipt of records, the learned Subordinate Judge, Tambaram is directed to dispose of the cases as expeditiously as possible. Consequently, the connected miscellaneous Petition is closed. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

vrn

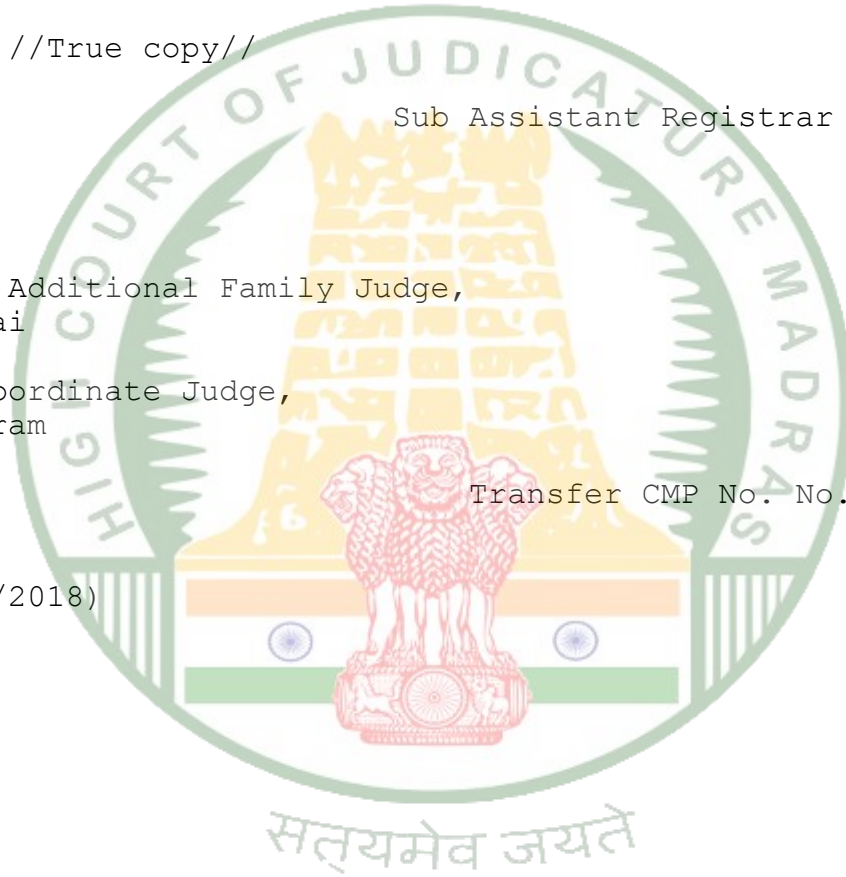
To

1. The VI Additional Family Judge,
Chennai

2. The Subordinate Judge,
Tambaram

Transfer CMP No. No.738 of 2018

GMV (14/12/2018)



WEB COPY