

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.182 of 2019
and C.M.P. No.5652 of 2019

R.Ramya

... Petitioner/Respondent

-VS-

K.Manojkannan

... Respondent/Petitioner

Prayer: Petition filed under Section 24 of C.P.C to withdraw HMOP No.821 of 2018 on the file of Sub Court, Poonamallee and transfer the same to the file of Family Court, Namakkal.

For Petitioner : Mr.S.Kalyanaraman

For Respondent : Mr.B.Gopalakrishnan

O R D E R

The Transfer C.M.P. has been filed to transfer the H.M.O.P. No.821 of 2018 pending on the file of the Sub Court, Poonamallee to the file of the Family Court, Namakkal.

2.Learned counsel appearing for the petitioner would submit that the petitioner herein has received a summon issued by the learned Sub Court, Poonamallee in H.M.O.P. No.821 of 2018 seeking dissolution of marriage, solemnised between the petitioner and the respondent and she has entered appearance through her counsel on 21.01.2019. According to the learned counsel appearing for the petitioner, the petitioner's husband has raised various allegations against the petitioner in the said H.M.O.P. and both the petitioner and respondent are hailing from Rasipuram Taluk, Namakkal District. Due to some strained relationship, both of them parted with and presently the petitioner is residing with her parents in Rasipuram. Whereas the respondent husband, who has been keeping custody of their small child, aged about 4½ years, is residing at Poonamallee within the jurisdiction of Sub Court, Poonamallee, where the said H.M.O.P. has been filed seeking dissolution of marriage under Section 13(1)(a) of the Hindu Marriage Act 2005.

Therefore, there is no difficulty on the part of the respondent to travel from Poonamallee to Namakkal, which is only about 345 kms., but on the other hand, the petitioner, being the wife, is compelled to undertake long travel either by bus or train, that would cause huge prejudice not only to the petitioner and also to her parents, who are accompanying her in every hearing. According to the learned counsel appearing for the petitioner, the respondent, leaving the small child at the custody of his parents, can undertake travel and there would not be any prejudice for the respondent to come and participate in the proceedings after the H.M.O.P. being transferred to Namakkal.

3. Opposing the prayer sought for by the petitioner, learned counsel appearing for the respondent would submit that if the matter is transferred to the Sub Court, Namakkal, the respondent has to come along with his small child for every hearing since his parents are also not willing to take care of his child and in that event, the child is also put to great prejudice, while travelling from Poonamallee to Namakkal.

4. After some arguments, learned counsel appearing for the respondent would submit that if the pending H.M.O.P. is transferred to the Family Court, Salem, there would not be any prejudice caused to the petitioner.

5. Learned counsel appearing for the petitioner agreed to the said submission.

6. With the consent of both parties, the H.M.O.P. No.821 of 2018 filed under Section 13(1)(a) of the Hindu Marriage Act 2005 seeking dissolution of marriage, pending on the file of the learned Sub Court, Poonamallee is hereby withdrawn and transferred to the file of the Family Court, Salem.

7. Both the parties are directed to co-operate with the Trial proceedings. The Family Court, Salem is directed to dispose of the said H.M.O.P. within a period of six months from the date of receipt of a copy of this order.

8. Learned counsel appearing for the respondent requested this Court to dispense with his presence till the matter is

taken up for enquiry. The respondent is directed to file appropriate application for the said relief and if any such application is filed, the same shall be considered by the Family Court, Salem. Accordingly, the Transfer C.M.P. is disposed of. No costs. Consequently, C.M.P. No.5652 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

1.The Sub Court,
Poonamallee.

2.The Judge, Family Court,
Namakkal.

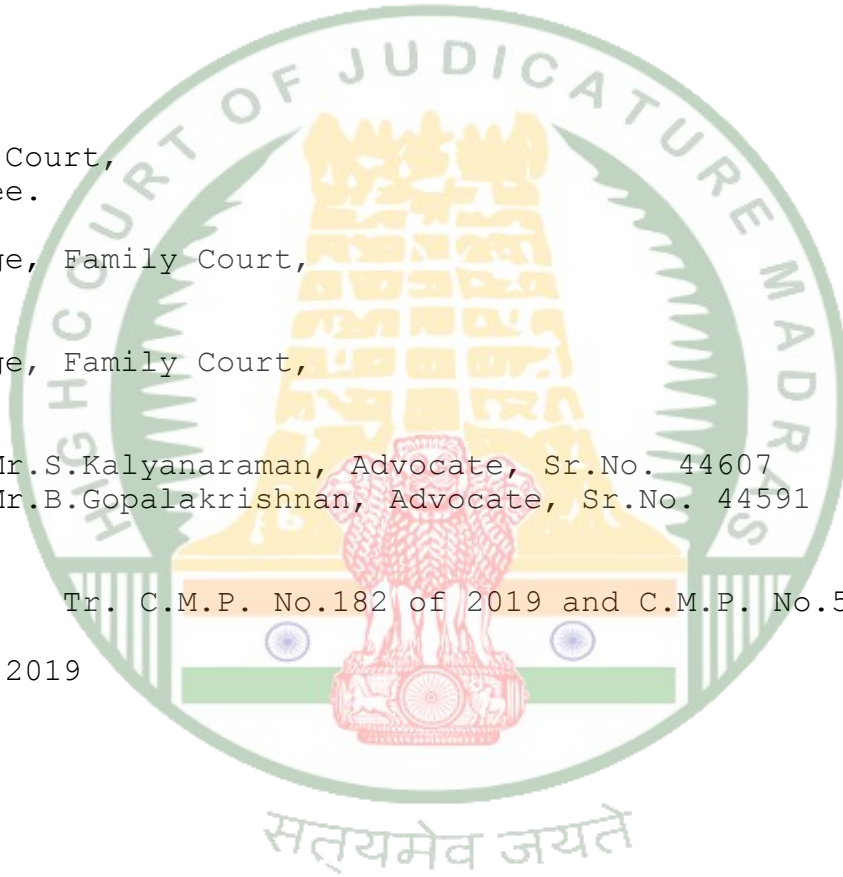
3.The Judge, Family Court,
Salem.

+1 cc to Mr.S.Kalyanaraman, Advocate, Sr.No. 44607

+1 cc to Mr.B.Gopalakrishnan, Advocate, Sr.No. 44591

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CSL/26.06.2019



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