

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.354 of 2019
and C.M.P. No.10187 of 2019

1.Nachammal

2.Subaal ... Petitioners

-vs-

Saravana Kumar ... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the G.W.O.P. No.22 of 2018 on the file of the Court of the Principal District Judge, Tiruppur and to transfer the same to the file of the Court of the Principal District Judge, Coimbatore for trial and disposal.

For Petitioners : Mr.R.Nandhakumar

For Respondent : Mr.S.Gunalan

O R D E R

The Transfer C.M.P. has been filed to transfer the G.W.O.P. No.22 of 2018 pending on the file of the Principal District Court, Tiruppur to the file of the Principal District Court, Coimbatore.

2.Learned counsel appearing for the petitioner would submit that the first petitioner is the mother in law of the respondent and the second petitioner is the mother of the first petitioner and the wife of the respondent, namely, Anandhi died on 18.07.2017, leaving behind her female child Yarthika. After her death, the petitioners have taken the custody of the child. Therefore, the respondent, being the father of the child, has filed G.W.O.P. No.22 of 2018 before the Principal District Court, Tiruppur. As the respondent is a Call Taxi Driver, travelling in and around Coimbatore and Tiruppur, he may not find it difficult to appear before the Principal District Court, Coimbatore and no prejudice would be caused to him, if the pending G.W.O.P. No.22 of 2018 is transferred to the file of the Principal District Court,

Coimbatore. Since the second petitioner, aged about 72 years, would find it difficult to undertake long journey from Coimbatore to Tiruppur, which is about 85 k.ms, the said petition be transferred to the file of the Principal District Judge, Coimbatore.

3. Opposing the above prayer, counter affidavit has been filed by the respondent father of the child. Learned counsel appearing for the respondent would submit that after the demise of the respondent's wife, the minor child was under the custody of the petitioners. Since the first petitioner mother in law of the respondent requested to hand over the child for three days, believing her words, the respondent had handed over the child. Thereafter, when the respondent requested the first petitioner to hand over the child, she was refused to do so. Therefore, the respondent has filed the G.W.O.P. No.22 of 2018 before the Principal District Court, Tiruppur under Section 7(1) of the Guardians and Wards Act praying to hand over the minor child. According to the learned counsel appearing for the respondent, the petitioners appeared before the Principal District Court, Tiruppur through their counsel. After a lapse of one year and that too after filing the counter affidavit in the G.W.O.P., opposing the prayer, cannot come to this Court seeking transfer of the G.W.O.P. No.22 of 2018 to the file of the Principal District Court, Coimbatore with a false and frivolous reasons.

4. I fully agree with the submissions made by the learned counsel appearing for the respondent. When the said G.W.O.P. filed by the respondent on the file of the Principal District Court, Tiruppur is pending for more than one year and the petitioners have also filed their counter affidavit and appeared through their counsel before the Principal District Court, Tiruppur, the petitioners cannot come to this Court seeking transfer, after a lapse of one year, that too pleadings are completed and the transfer would cause more delay. Therefore, the prayer sought for by the petitioners is refused. Accordingly, the petition is dismissed. No costs. Consequently, C.M.P. No.10187 of 2019 is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vga

To

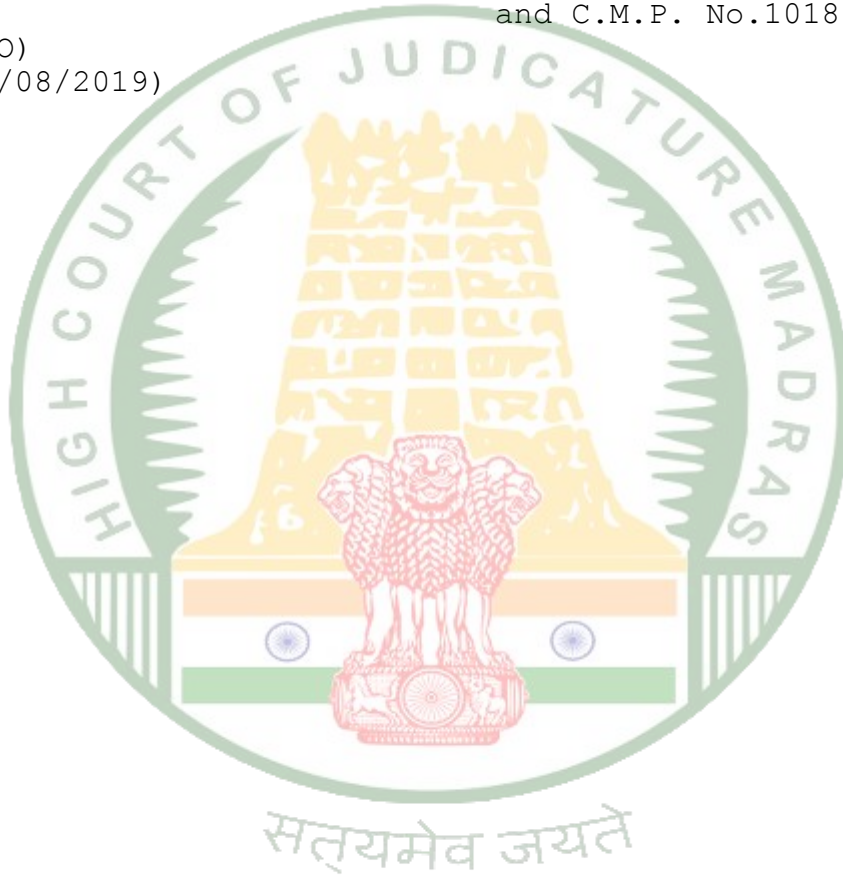
1.The Principal District Judge, Tiruppur.

2.The Principal District Judge, Coimbatore.

+lcc to Mr.S.Gunalan , Advocate SR.No. 58359

Tr. C.M.P. No.354 of 2019
and C.M.P. No.10187 of 2019

BR (CO)
A.SK(19/08/2019)



WEB COPY