

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.353 of 2019
and C.M.P. No.10082 of 2019

K.Nageswara Babu ... Petitioner/ Respondent

-vs-

R.Nandhini ... Respondent/ Petitioner

Prayer: Petition filed under Section 24 of C.P.C to withdraw the petition in H.M.O.P. No.192 of 2018 pending on the file of the Subordinate Court, Tiruchengode, Namakkal District and transfer the same to the file of the Family Court, Coimbatore.

For Petitioner : Mr.A.Thiyagarajan

For Respondent : No Appearance

O R D E R

The Transfer Civil Miscellaneous Petition has been filed to transfer the H.M.O.P. No.192 of 2018, pending on the file of the Sub-Court, Tiruchengode, Namakkal District, to Family Court, Coimbatore.

2.The learned counsel appearing for the petitioner/husband would submit that the marriage between the petitioner and the respondent was solemnized on 31.08.2014 at Shanthi Thirumana Mandpam, Kovai Mettupalayam Gounder Mill Bus Stop, Coimbatore, as per Hindu rites and customs. Due to the matrimonial problems, the respondent/wife has filed Domestic Violence Case in D.V.C.No.7 of 2017 on the file of the Judicial Magistrate, Tiruchengode, Namakkal District with false and imaginary allegations. The family members of the petitioner/husband has also been falsely implicated.

3.The petitioner/husband has also filed a petition in Crl.O.P.No. 22823 of 2018 along with Crl.M.P.No.12714 and 12715 of 2018 before this Court seeking transfer of case in D.V.C.No.7 of 2017, pending on the file of the Judicial Magistrate, Thriuchengode, Namakkal to any one of the jurisdictional Magistrate Courts at Coimbatore. This Court also granted stay in H.M.O.P.No. 192 of 2018 accepting the case of the petitioner/husband. When the respondent/wife also resides in Coimbatore, she cannot proceed with the case in D.V.C.No. 7 of 2017 pending on the file of Judicial Magistrate, Thiruchengode. If H.M.O.P.No.192 of 2018, filed by the respondent/wife is transferred to the file of the Family Court, Coimbatore, no prejudice will be caused to the respondent/wife.

4.As per the records maintained by the Registry, notice was ordered on the respondent on 25.04.2019 and private notice has also been taken by the learned counsel for the petitioner, but notice was returned with an endorsement "no such addressee". The learned counsel appearing for the petitioner sought permission to serve notice on the counsel appeared for the respondent before the Trial Court, where H.M.O.P.No. 192 of 2018 is pending. Accordingly, the service also has been effected through the learned counsel for the respondent, who appeared before the lower Court. Proof of affidavit has also been filed. In spite of all this, there is no representation on behalf of the respondent/wife either by engaging a counsel or by herself.

5.Taking note of the fact that although service is completed and the respondent has not chosen to appear before this Court, which shows that the respondent has no objection in allowing the petition. Therefore, this Court is inclined to transfer the H.M.O.P. No.192 of 2018 pending on the file of the Sub-Court, Tiruchengode, Namakkal District to the file of the Family Court, Coimbatore.

6.Accordingly, H.M.O.P.No.192 of 2018, pending on the file of Sub Court, Tiruchengode, Namakkal District is withdrawn and the same is transferred to the Family Court, Coimbatore.

7.The Sub Court, Tiruchengode, Namakkal is directed to send all the records relating to H.M.O.P.No.192 of 2018 to the Family Court, Coimbatore forthwith and the Family Court, Coimbatore is directed to dispose of H.M.O.P.No.192 of 2018 expeditiously in the manner known to law.

8.With the above direction, the Transfer C.M.P.No.353 of 2019 is allowed. No costs. Consequently, C.M.P. No.10082 of 2019 is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

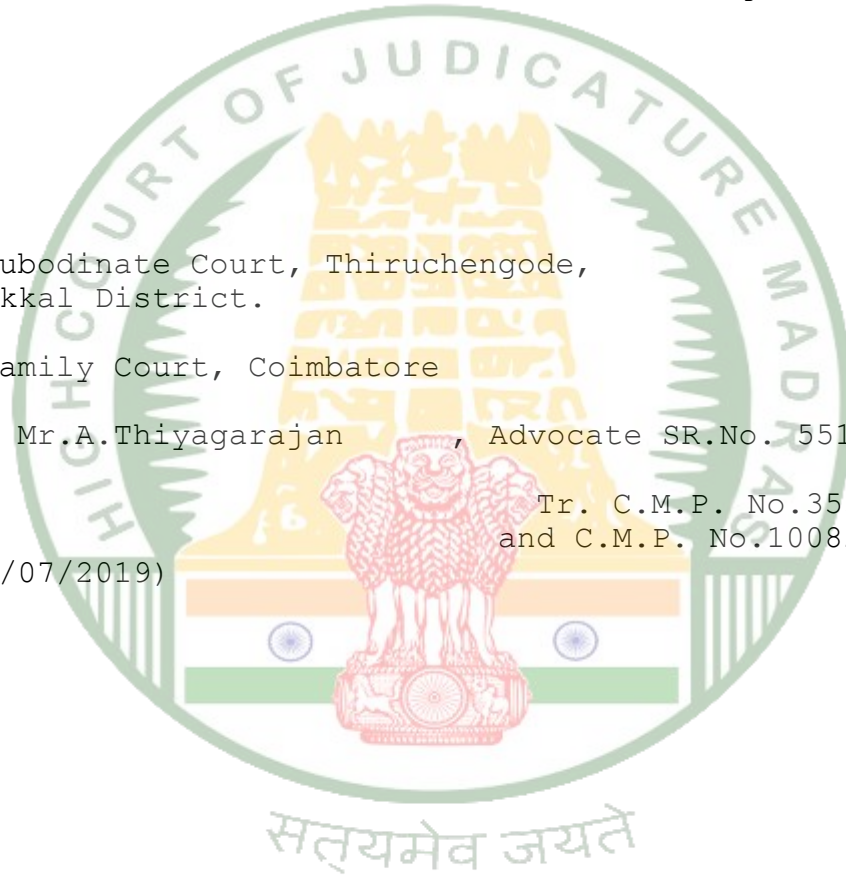
1.The Subordinate Court, Thiruchengode,
Namakkal District.

2.The Family Court, Coimbatore

+1cc to Mr.A.Thiyagarajan , Advocate SR.No. 55134

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A.SK(31/07/2019)



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