

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.CMP.NO.182 OF 2018

AND

CMP.NO.4869 OF 2018

1. S.Govindaraj

2. Kamalammal Petitioners/Respondents

Versus

V.Suresh Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw GWOP. No.893 of 2017 from the file of the learned Principal Family Court, coimbatore and to transfer the same to the Family Court, Salem.

For Petitioners: Mr.N.Manokaran

For Respondent : Notice served - No appearance

O R D E R

The petitioners have filed this petition, seeking to withdraw GWOP. No.893 of 2017 pending on the file of the learned Principal Family Court, coimbatore and to transfer the same to the Family Court, Salem.

2. The case of the petitioner is that the respondent had got married to one Sunganthi on 03.03.2004. Later, they have mutually dissolved the marriage by way of consent decree dated 07.12.2006 in HMOP. No.762 of 2006. However, the respondent blessed with a son through his first wife. Even though the respondent got a visitation right, he has not opted such right till this date. Thereafter, the petitioner's daughter one Gayathri Devi got married to the respondent herein on 25.06.2007. Out of the wedlock, a male child viz., Prabhakaran was born on 21.05.2011. Due to the misunderstanding, the couples were living separately. For which, the respondent has filed a petition for divorce in HMOP. No.455 of 2015 before the Family court, Coimbatore. During the pending of the divorce

case, the petitioner's daughter died on 06.11.2016. Prior to her death, the petitioner had written a letter stating that the respondent should not be given custody of the child viz., Prabhakaran. She made it clear that the child has to live with her father viz., the first petitioner herein. Now the child is studying in fourth standard at Tiruppur in her aunt Baby @ Santhi (the petitioner's aunt).

3. Under these circumstances, the respondent has filed a petition in GWOP. No.893 of 2017 before the Family Court, Coimbatore against the petitioners herein seeking custody of his son Prabhakaran. The petitioners are the resident of Salem. Therefore, they seek transfer of the above case to the file of the Family court, Salem.

4. The learned counsel for the petitioners would submit that the first petitioner is aged about 65 years and the second petitioner is aged about 85 years. Both the petitioners are living in Salem. The petitioners are not in a position to travel to Coimbatore for conducting the case filed by the respondent. Hence the learned counsel for the petitioners seek transfer of the case from the Family Court, Coimbatore to the file of the Family court, Salem.

5. On several times, this Court ordered notice to the respondent through Court as well as privately and the same was served on him. In spite of giving sufficient opportunities, the sole respondent has not entered appearance before this Court either in person or through his counsel. Therefore, this court is inclined to pass orders on merits in accordance with law.

6. Heard the learned counsel for the petitioner and perused the materials available on record. None appears on behalf of the respondent.

7. It is seen from the records, the petitioners are aged persons. Due to old aged, they could not travel around 300 kms, for attending the Court at Coimbatore. On the other hand, the respondent has also not entered appearance.

8. Considering the above facts and circumstances of the case and also considering the convenience of the petitioners in respect of the place where they reside, this Court deems it fit to transfer the said GWOP. No.893 of 2017 pending on the file of the Family Court, Coimbatore to the file of the Family Court, Salem.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and GWOP. No.893 of 2017, on the file of the Family Court, Coimbatore, is withdrawn and transferred the same to the

file of the Family Court, Salem. No Costs. Consequently, connected Miscellaneous Petition is closed.

10. The learned Judge, Family court, Coimbatore, is directed to transfer the petition in GWOP. No.893 of 2017 within a period of four week from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

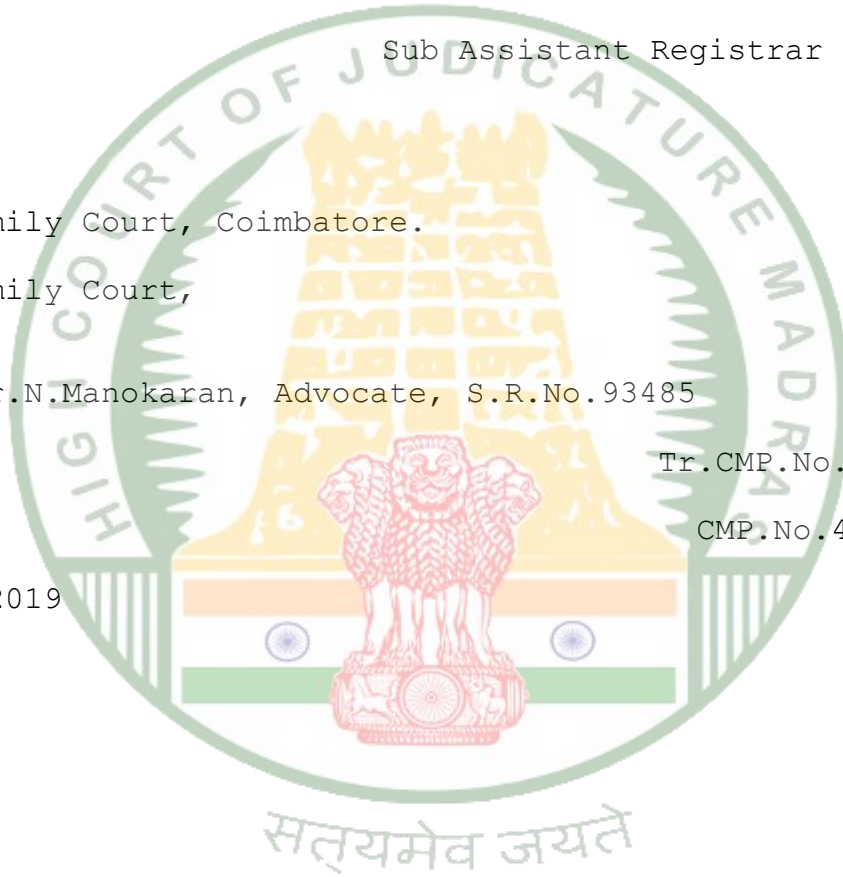
1. The Family Court, Coimbatore.

2. The Family Court,
Salem.

+lcc to Mr.N.Manokaran, Advocate, S.R.No.93485

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SAI (CO)
CS/19/12/2019



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