

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.31 of 2018
and C.M.P. No.797 of 2018

Jayapriya

... Petitioner

-vs-

G.Vijayakumar

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the H.M.O.P. No.258 of 2017 pending on the file of the III Additional Sub Court at Madurai and transfer the same to the Sub Court, Poonamallee at Chennai, to be tried along with O.P. No.700 of 2017 on the file of the Sub Court, Poonamallee at Chennai.

For Petitioner : Mr.S.Anil Sandeep

For Respondent : No appearance

O R D E R

The Transfer C.M.P. has been filed to transfer the H.M.O.P. No.258 of 2017 pending on the file of the III Additional Subordinate Court, Madurai to the file of the Sub Court, Poonamallee at Chennai to be tried along with O.P. No.700 of 2017 pending on the file of the Sub Court, Poonamallee at Chennai.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 13.06.2008 at Thiruchendur Murugan Temple, Thiruchendur, as per Hindu rites and customs and the same was registered on 28.10.2009 in the office of the Marriage Registrar at Poonamallee. Learned counsel appearing for the petitioner would further submit that out of the wedlock, they got a female child, namely G.V.Ruthra Devi on 23.05.2013. Later on, due to difference of opinion occurred between the parties, the respondent has filed the divorce petition in H.M.O.P. No.258 of

2017 on the file of the III Additional Sub Court at Madurai by making false and frivolous allegations against the petitioner. In order to lead the matrimonial life peacefully, the petitioner had filed the H.M.O.P. No.700 of 2017 before the Subordinate Court, Poonamallee, seeking restitution of conjugal rights. According to the learned counsel appearing for the petitioner, as 4 years old daughter and the petitioner's blind mother are the dependents of the petitioner, she finds it difficult to travel long journey from Poonamallee to Madurai.

3.Learned counsel appearing for the petitioner would further submit that he had taken notice to the respondent on various occasions to the address mentioned in the H.M.O.P. No.258 of 2017, but it has been returned with an endorsement 'left'. However, with the leave of the Court, fresh notice was directed to be served on the learned counsel appearing on behalf of the respondent before the III Additional Sub Court at Madurai. Complying with the said direction, service was also effected through the learned counsel for the petitioner and affidavit of service has also been filed by him.

4.A perusal of the records maintained by the registry shows that the service was effected through the learned counsel for the petitioner, who has taken private notice to the respondent to the address given by the respondent in the H.M.O.P. No.258 of 2017. Therefore, service is completed.

5.Taking note of the fact that the petition in H.M.O.P. No.700 of 2017 seeking for restitution of conjugal rights, filed by the petitioner was pending before the Subordinate Court, Poonamallee and although service is completed, the respondent has not chosen to appear before this Court, which shows that the respondent has no objection in allowing the petition, this Court is inclined to transfer the H.M.O.P. No.258 of 2017 pending before the III Additional Subordinate Court, Madurai to the file of the Subordinate Court, Poonamallee at Chennai.

6.Accordingly, the Tr. C.M.P. is allowed and the H.M.O.P. No.258 of 2017 pending on the file of the III Additional Subordinate Court, Madurai is withdrawn and transferred to the file of the Subordinate Court, Poonamallee at Chennai to be tried along with O.P. No.700 of 2017.

7.The Subordinate Court, Poonamallee at Chennai is directed to take up both the cases and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.797 of 2018 is closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

vga

To

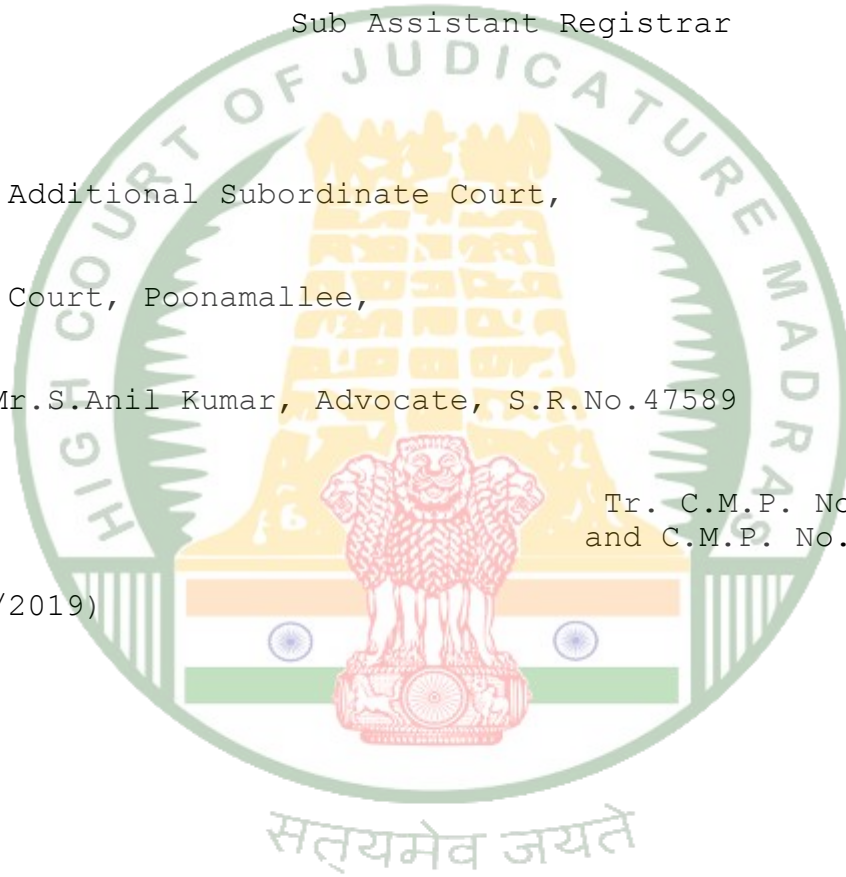
1.The III Additional Subordinate Court,
Madurai.

2.The Sub Court, Poonamallee,
Chennai.

+2 cc to Mr.S.Anil Kumar, Advocate, S.R.No.47589

GP(CO)
SSM(16/07/2019)

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