

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.03.2019

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

TR.CMP.NO.564 of 2018
and
C.M.P.NO.13768 OF 2018

K.Vanitha Petitioner/Respondent

K.Tamilselvan Vs. Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous petitions filed under section 24 of the Civil Procedure Code, praying to withdraw the case in H.M.O.P.No.29 of 2013 pending on the file of the learned Subordinate Judge, Tiruvannamalai and transfer the same to Subordinate Court at Villupuram.

For petitioner : Mr.S.Ambigapathi

For respondent : Mr.P.Vasanth

O R D E R

This petition is filed by the petitioner seeking to withdraw the case in H.M.O.P.No.29 of 2013 pending on the file of the learned Subordinate Judge, Tiruvannamalai and transfer the same to the learned Subordinate Court at Villupuram.

2.The petitioner is the wife, residing at Mel Thazhanur Village, Villupuram District. The respondent / husband filed a divorce petition in H.M.O.P.No.29 of 2013 before the Sub Court, Tiruvannamalai. The petitioner / wife also filed a Maintenance Case in M.C.No.1 of 2015, before the Judicial Magistrate No.I, Tiruvannamalai.

3.It is submitted by the learned counsel for the respondent that a Domestic Violence Case is also pending before the District Welfare Officer, Tiruvannamalai. At this stage, the petitioner / wife seeks transfer of case, on the grounds of physical hardship caused to her.

4.The learned counsel for the petitioner would submit that the distance between Villupuram and Tiruvannamalai is 100 kms and she cannot travel such a long distance for every hearing of the case. Therefore, the case has to be transferred to Villupuram.

5. Per contra, the learned counsel for the respondent would submit that the residence of the petitioner is between Villupuram and Tiruvannamalai. Both the Courts are at equal distance. Eitherway, the petitioner has to travel 30kms to reach the Court.

6. I have considered the submissions. It is an admitted fact that the petitioner herself filed a maintenance case before the Judicial Magistrate Court, Tiruvannamalai, which is still pending. She also filed a complaint under Domestic Violence Act before the District Welfare Officer at Tiruvannamalai, which is not denied. Both the Courts at Tiruvannamalai and Villupuram are situated at equal distances from her residence. In that event, the petitioner has to travel to both the Courts for every hearing. Therefore, this Court considers that the pendency of the case filed by the petitioner before Tiruvannamalai Court will show that it is convenient for the petitioner to travel to Tiruvannamalai rather than running between Villupuram and Tiruvannamalai to contest the cases at different places.

7.I do not find any bonafide in the case of the petitioner.The petition has been filed only with an intention to drag on the proceeding, which is pending at the stage of Cross examination of P.W.1 for the past two years.

8. Under such circumstances, the Transfer Civil Miscellaneous Petition merits no consideration and accordingly dismissed. A Direction is issued to the Sub Court, and Judicial Magistrate No.I, Tiruvannamalai to complete the proceedings in H.M.O.P.No.29 of 2013 and M.C.No.1 of 2015 respectively, within a period of six months from the date of receipt of a copy of this order. The petitioner shall render cooperation to complete the proceedings. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-IV)

//True Copy//

Sub Assistant Registrar

bkn

To

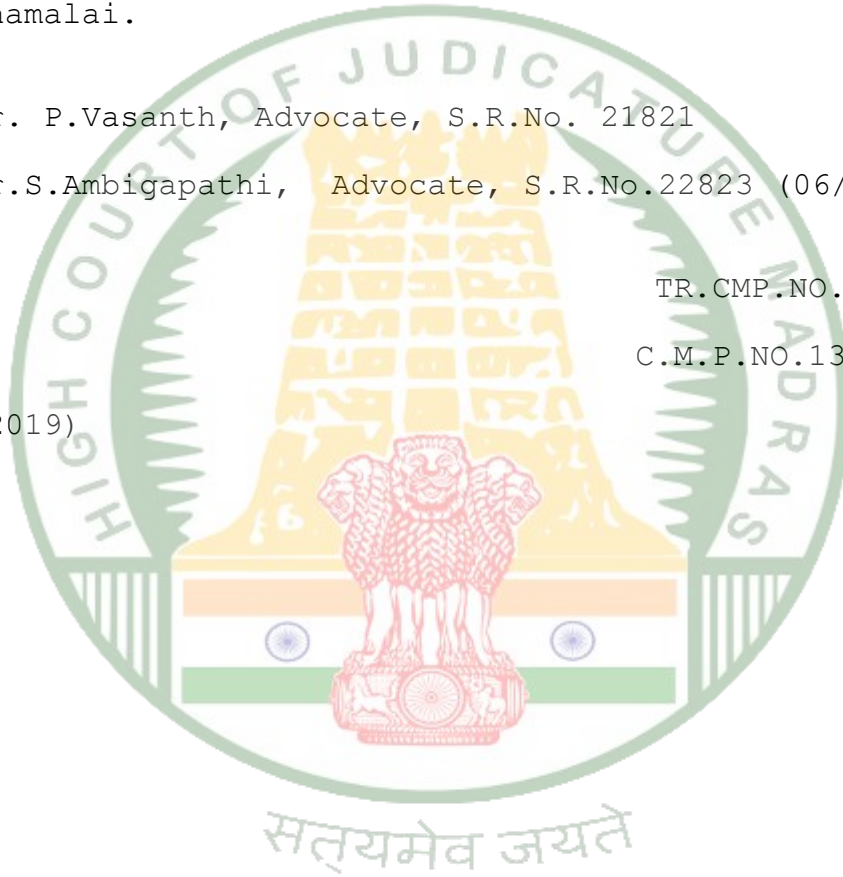
1. The Subordinate Judge,
Tiruvannamalai.
2. The Subordinate Judge,
Villupuram.
- 3.The Judicial Magistrate No.1,
Tiruvannamalai.
- 4.3.Do Thro The Chief Judicial Magistrate,
Tiruvannamalai.

+1cc to Mr. P.Vasanth, Advocate, S.R.No. 21821

+1cc to Mr.S.Ambigapathi, Advocate, S.R.No.22823 (06/08/2019)

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