

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP.No.569 of 2019
and
CMP.No.16061 of 2019

K.Suresh

... Petitioner

Versus

R.Rithanyaa

... Respondent

Prayer : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.9 of 2017, on the file of 1st Additional Subordinate Judge, Salem and transfer the same to the Family Court, Salem to be tried along with case in F.C.OP.No.212 of 2017.

For Petitioner : Mr.C.Deepak Kumar

For Respondent : Mr.Veddiappan for

MR.P.Ganesan

M/s.C.S.Associates

O R D E R

The Transfer Miscellaneous Petition has been filed seeking to withdraw and transfer the proceedings pending in HMOP. No.9 of 2017 on the file of the learned Ist Additional Subordinate Judge, Salem and transfer the same to the file of Family Court, Salem, to be tried along with F.C.O.P. No.212 of 2017.

2. The case of the petitioner is that the respondent and the petitioner is the husband and wife and the marriage between the parties was solemnized on 04.07.2016 at "Sri Sarva Sakthi Valamburi Vinayagar Temple", Namakkal as per Hindu Rites and Customs and the said marriage was registered in Pallipalayam Sub Registrar Officer. The couples set up their matrimonial house at Salem. The above said marriage was a love marriage and at the time of marriage, the respondent was studying in a private college. When the respondent father came to know about the marriage and he refused to accept the marriage because of inter-caste and threatened them by engaging a henchmen. Thereafter, the petitioner and the respondent gave a compliant against

father of the respondent before the Superintendent of Police and seeking for police protection and also approached this Court in CrI.OP No.21438 of 2016 seeking for police protection. This Court vide order dated 23.09.2016 had granted police protection and accordingly, the Deputy Superintendent of Police, Valapadi conducted an enquiry and thereby, the respondent's father influenced the police officials and separated the respondent from the petitioner. Since two proceedings are pending in two different Court, he finds it difficult to to attend the both Court proceedings. Therefore, he seeks transfer of the H.M.O.P.No.9 of 2017 filed by the wife to Family Court, Salem, to be tried along with F.C.O.P.No.212 of 2017.

3. However, to the shock and surprise of the petitioner, he received a summon in H.M.O.P.No.09/2016 filed by the respondent/wife seeking for dissolution of Marriage under Section 12(1) (c) & 12(2) of the Hindu Marriage Act, 1995. The petitioner/husband filed a petition in F.C.O.P.No.212 of 2017 on the file of Family Court, Salem. The respondent was set exparte for her non-appearance. Thereafter, she filed a set aside petition and the same is pending and posted for hearing on 26.07.2019.

4. The learned counsel for the petitioner states that since both the suits are pending in two different Court, it will be difficult for him to attend to his work and therefore, he prays this Court to withdraw the H.M.O.P.No.9 of 2017, pending on the file of 1st Additional Subordinate Judge, Salem and transfer the same to Family Court, Salem, to be tried along with case in F.C.O.P.No.212 of 2017. If the case is transferred to Family Court, Salem, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case in HMOP. No.9 of 2017 filed by the wife from I Additional Family Court, Salem to Family Court, Salem to try along with FCOP. No.212 of 2017.

5. The learned counsel for the respondent has no objection to transfer the petition to Family Court, Salem.

6. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

7. Considering the convenience of the parties, this Court is inclined to transfer the case from I Additional Subordinate Judge, Salem to Family Court, Salem. Accordingly, HMOP. No.9 of 2017 pending on the file of I Additional Subordinate Judge, Salem is to be withdrawn and transferred to the file of the Family Court, Salem and to be tried along with F.C.O.P.No.212 of 2017.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

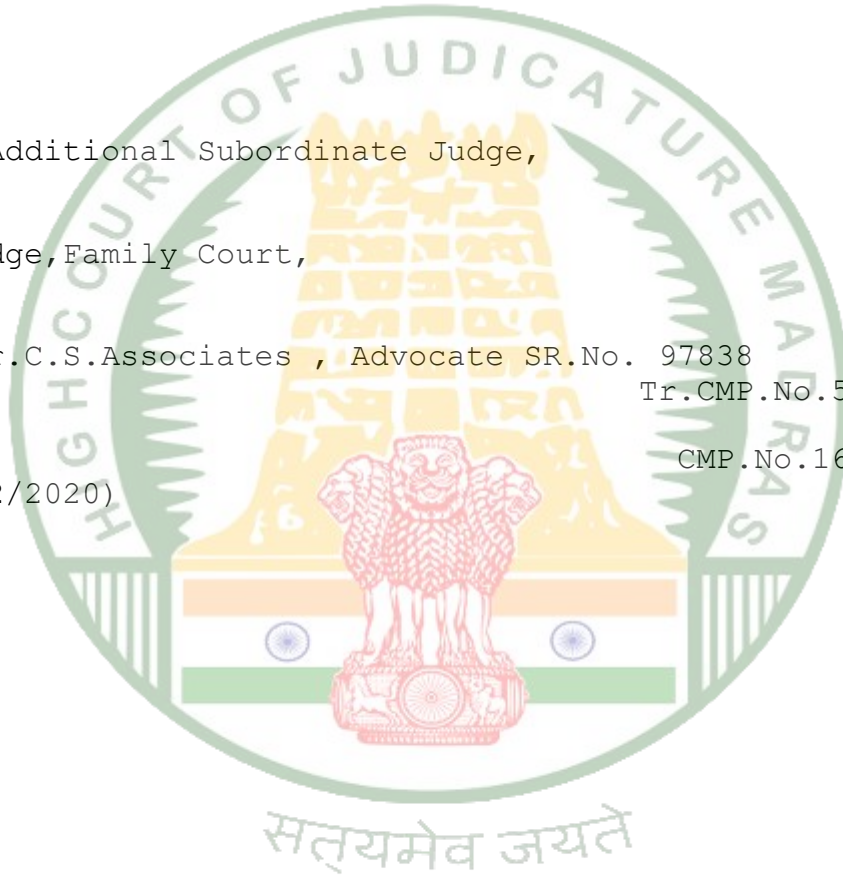
1. The I Additional Subordinate Judge,
Salem.

2. The Judge, Family Court,
Salem.

+1cc to Mr.C.S.Associates , Advocate SR.No. 97838

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A.SK(03/02/2020)



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