

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.575 of 2019

and

C.M.P.No.16437 of 2019

Gomathy

... Petitioner

Vs.

Sathiyakumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the HMOP. No.32 of 2018 pending on the file of the Sub Court, Dharmapuri and transfer the same to the file of the Sub Court, Omalur, Salem District, since the maintenance petition in M.C.No.16 of 2018 is pending on the file of the learned Judicial Magistrate, Omalur.

For Petitioner : Mr.V.Pushpalatha

For Respondent : Notice served – No appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking withdraw the HMOP. No.32 of 2018, pending on the file of the Sub Court, Dharmapuri and to transfer the same to the file of the Sub Court, Omalur, Salem District.

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between the petitioner and the respondent on 13.12.2007 at Ganapathiyur near the residence of the respondent as per Hindu Rites and Custom. Out of the wedlock, two male children were born viz., Lokesh and Kabilesh. The respondent used to drink alcohol and abused the petitioner in filthy language. Due to cruel attitude of the respondent, the petitioner left the matrimonial home along with the children and staying in her parental house. Both the children are studying in the school and they are in the custody of the petitioner. The petitioner borrowed money for their livelihood and educational expenses of the children. Therefore, she filed a maintenance case in M.C.No.16 of 2018 before the learned Judicial Magistrate, Omalur. Subsequently, the respondent has filed a petition in HMOP. No.32 of 2018 on the file of the Sub court, Dharmapuri for dissolution of marriage. The petitioner/wife is the resident of Omalur. She finds it difficult to travel from Omalur to Dharmapuri to attend the Court proceedings. Therefore, she seeks transfer of the divorce petition filed by the husband, which is pending before the Sub Court, Dharmapuri to Sub Court, Omalur.

3. This Court ordered notice on 01.08.2019 and the same was served on the respondent. In order to give sufficient opportunities, he has not appeared in person or through his counsel. Hence, this Court is inclined to dispose of the matter on merits in accordance with law.

4. The learned counsel for the petitioner/wife would submit that the respondent is earning more than Rs.50,000/- through his vegetable business. The respondent is having sufficient means, neglected to maintain the petitioner and his children. The petitioner has no income. Being a lady, the petitioner could not travel alone from Omalur to Dharmapuri which is around 53 K.M. distance. Because of this, she is facing physical as well as financial issues. Therefore, it will be appropriate to transfer the case filed by the husband from Dharmapuri to Omalur.

5. Considering the convenience of the petitioner and physical hardship caused to her, this Court is inclined to transfer the case from Dharmapuri to Omalur. Accordingly, HMOP. No.32 of 2018 pending on the file of Sub Court, Dharmapuri is withdrawn and transferred to the file of the learned Sub Court, Omalur.

6. In the result, the Transfer Civil Miscellaneous Petition is

allowed. No costs. Consequently, connected miscellaneous petition is closed.

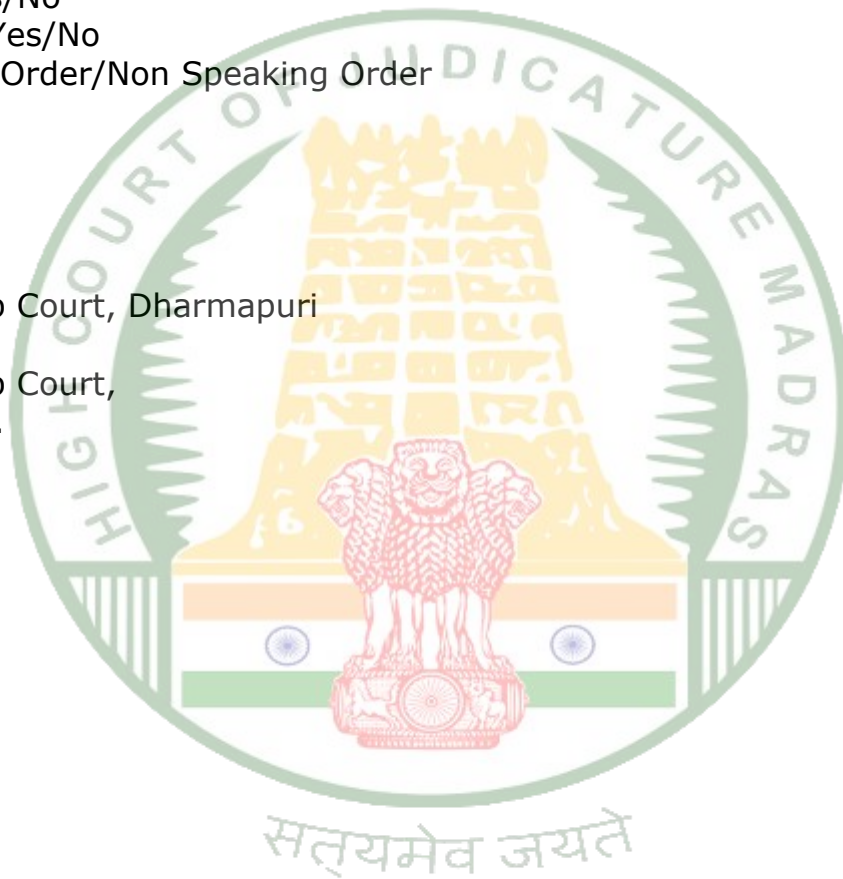
24.09.2019

Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking Order

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To

- 1.The Sub Court, Dharmapuri
- 2.The Sub Court,
Omalur.

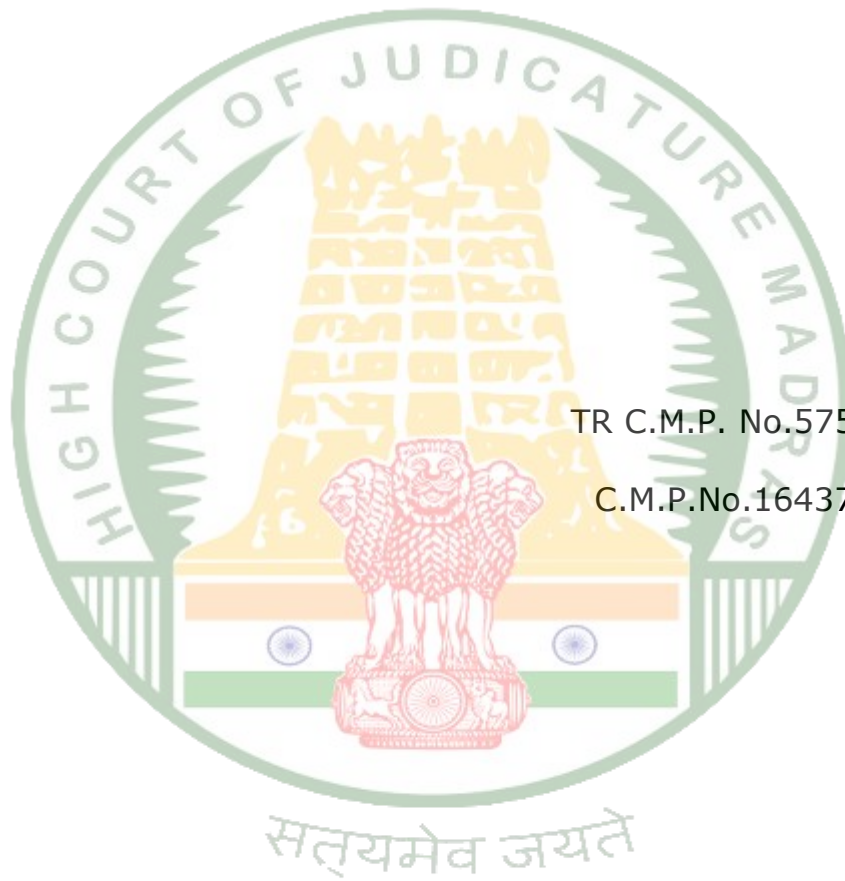


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V.BHAVANI SUBBAROYAN., J.

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