

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2019

CORAM :

THE HONOURABLE MR. JUSTICE T.RAJA

Tr.C.M.P.No.712 of 2018
and
C.M.P.No.17584 of 2018

S.Thanigachalam ... Petitioner/ Respondent
Vs.
A.Jayameera Respondent/ Petitioner

Prayer:- Petition has been filed under Section 24 of C.P.C., praying to withdraw M.O.P.No.369 of 2015, pending on the file of the Family Court, Puducherry, and transfer the same to the file of the Principal District and Sessions Judge, Cuddalore.

For Petitioner : Mr.M.Prabakar
For Respondent : Ms.I.Malar

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw M.O.P.No.369 of 2015 pending on the file of the learned Family Court, Puducherry, and to transfer the same to the file of the learned Principal District and Sessions Judge, Cuddalore.

2. Learned counsel appearing for the petitioner submitted that the petitioner aged about 63 years old was forced to tie 'Thali' on the respondent on 03.07.2015 at Mariamman Koil, Villianur, Puducherry, and thereafter, they went to the police station, whereby, she had expressed her unwillingness to live with him. It is further submitted that he had never lived with the respondent as the said marriage was not solemnized legally. Whiles, the petitioner herein filed a suit in O.S.No.233 of 2015 on the file of the District Munsif Court, Cuddalore, seeking to declare that the respondent is not the wife of the petitioner and for permanent injunction restraining the respondent from claiming to be the wife of the petitioner. The suit was also decreed exparte on 07.03.2016. After the

exparte decree was passed, an application seeking to set aside the same was moved and the same was also allowed. Later-on, the suit in O.S.No.233 of 2015 was transferred from the file of the District Munsif Court, Cuddalore, to the file of the Family Court, Cuddalore. Now, both the parties are contesting the said suit.

3. It is further submitted that the respondent has not even sought for transfer of the above said suit from the file of the learned Family Court, Cuddalore, to the file of the learned Family Court, Puducherry, where the M.O.P.No.369 of 2015 filed by the respondent seeking restitution of conjugal rights is pending, therefore, it shows that she is ready to defend her claim at Cuddalore. Secondly, both the petitioner and the respondent are residing within 10 kms. from Cuddalore, therefore, instead of undertaking long journey from Cuddalore to Puducherry, which is about 25 kms., it is more appropriate to transfer the case filed by the respondent to the file of the learned Family Court, Cuddalore.

4. Learned counsel for the respondent submitted that when the suit filed in O.S.No.233 of 2015 filed by the petitioner is pending on the file of the learned Family Court, Cuddalore, the application filed by the respondent seeking restitution of conjugal rights can be contested on the file of the learned Family Court, Puducherry.

5. But, this Court is unable to find any merit on the above said submission. When the suit filed by the petitioner in O.S.No.233 of 2015 seeking to declare the forced marriage held on 03.07.2015 between them as null and void is pending on the file of the learned Family Court, Cuddalore, it is appropriate to transfer the case filed by the respondent to the file of the learned Family Court, Cuddalore, for disposal of both the cases. Besides, the learned Family Court, Cuddalore, is situated within 10 kms. from the place of residence of both the parties and therefore, for the convenience of both the parties, M.O.P.No.369 of 2015 filed by respondent is withdrawn from the file of the learned Family Court, Puducherry, and consequently, transferred to the file of the learned Family Court, Cuddalore. On such transfer, the learned Family Court, Cuddalore, shall dispose of both the cases in the manner known to law as expeditiously as possible.

6. With the above direction, the present Transfer Civil Miscellaneous Petition is allowed. Consequently, connected C.M.P.No.17584 of 2018 is closed.

Sd/-
Assistant Registrar(CS)

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Sub Assistant Registrar

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To

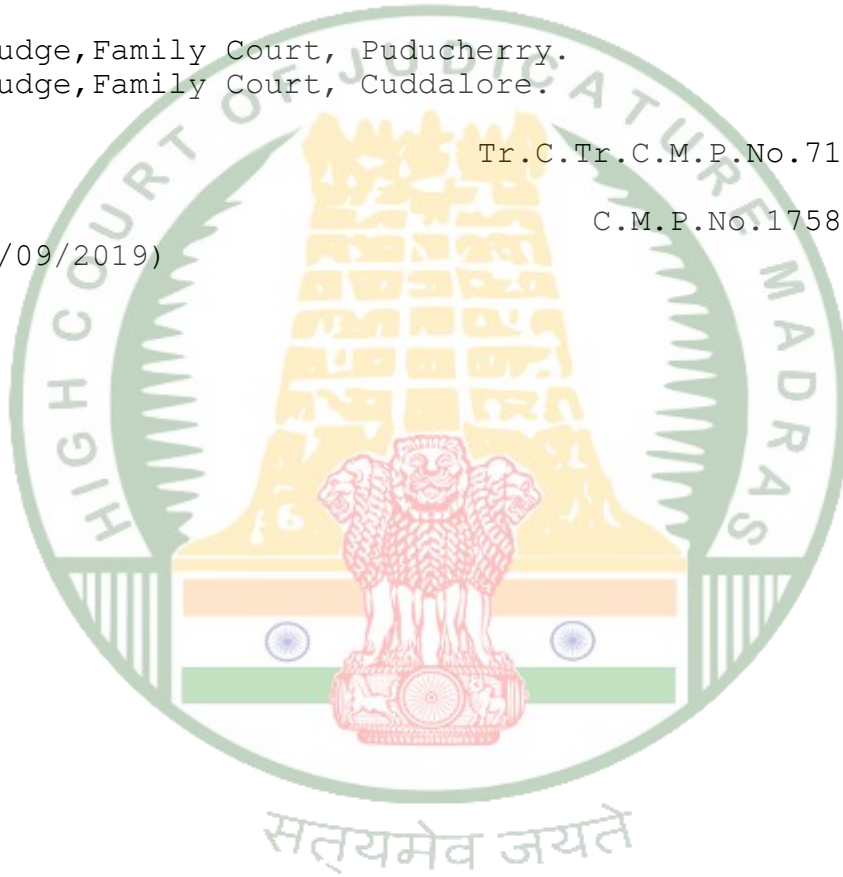
1.The Judge,Family Court, Puducherry.

2.The Judge,Family Court, Cuddalore.

Tr.C.Tr.C.M.P.No.712 of 2018
and

C.M.P.No.17584 of 2018

A.SK(30/09/2019)



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