

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.743 of 2018
and C.M.P.No.18099 of 2018

Srividhyalakshmi

..

Petitioner

versus

A.Karthick

..

Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.404 of 2018 pending on the file of the Sub Court, Poonamallee and transfer the same to the file of the V Additional Family Court, Chennai, to be tried along with the Petition in M.C.No.396 of 2018 pending on its file.

For Petitioner : M/s.V.Usha Rani

For Respondent : Mr.G.Sudhakar

O R D E R

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw the case i.e. H.M.O.P.No.404 of 2018 pending on the file of the Sub Court, Poonamallee and transfer the same to the file of the V Additional Family Court, Chennai, to be tried along with the Petition in M.C.No.396 of 2018 pending on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 04.12.2016 at Sri Annai Mahal, Chennai, as per Hindu rites and customs. After some time from the date of marriage, difference of opinion arose between the petitioner and respondent, resultantly, the petitioner left the matrimonial home and residing along with her parents at Chennai.

3. After leaving the matrimonial home by the petitioner, the respondent has filed a petition under Section 13 (1) (i-a), 13(1) (i) of the Hindu Marriage Act, 1954 before the

Sub Court, Poonamallee, for the relief of annulling the marriage happened between them on 04.12.2016. As of now, the said petition is pending before the Sub Court, Poonamallee as H.M.O.P.No.404 of 2018.

4. After knowing the particulars of the above case, the petitioner has filed a petition against the respondent before the V Additional Family Court, Chennai, under Section 125 of the Code of Criminal Procedure and claiming maintenance from the respondent. The said petition is now pending before the V Additional Family Court, Chennai as M.C.No.396 of 2018. In the said circumstances, the petitioner has approached this Court by way of filing the present Transfer Civil Miscellaneous Petition for the relief as stated supra.

5. The learned counsel appearing for the petitioner would submit that since the proceedings initiated in M.C.No.396 of 2018 and H.M.O.P.404 of 2018 are related to the dispute arising between the petitioner and respondent, trying the both matters by a single Judge is convenient to the petitioner and respondent.

6. On the other hand, the learned counsel appearing for the respondent would contend that since the respondent is working in Bangalore, it is very difficult for him to attend the Court proceedings in the Family Court at Chennai and hence, he prays for dismissal of this petition.

7. Initially, in the affidavit filed by the petitioner as well as in the counter affidavit filed by the respondent, both of them made various allegations against each other. Since those allegations are related to their matrimonial life, it is not necessary for this Court to verify the genuinity of the said allegations. The only issue raised in this case is whether the petitioner projected the sufficient cause for allowing the petition or not. Usually, as per the procedure adopted in the Sub Court, except for examining the witnesses and for conciliation, the presence of the petitioner and respondent is not mandatory. Further, the respondent being the employee in Bangalore, keeping the petition in the same Court is convenient to him, since the issue raised in H.M.O.P.No.404 of 2018 and M.C.No.396 of 2018 are not related to each other, joint trial for both cases are not necessary. In otherwise, the contention raised by the learned counsel for the petitioner that the joint trial is necessary for deciding both the cases is not having any merits.

8. Apart from that, the distance between the Sub Court, Poonamallee and the V Additional Family Court, Chennai, is just 20 kms, looking into the convenience of the petitioner and respondent, this Court decided to transfer the H.M.O.P.No.404 of

2018 from the file of the Sub Court, Poonamallee to the file of the V Additional Family Court, Chennai, is not necessary.

9. In the result, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Subordinate Judge, Poonamallee.

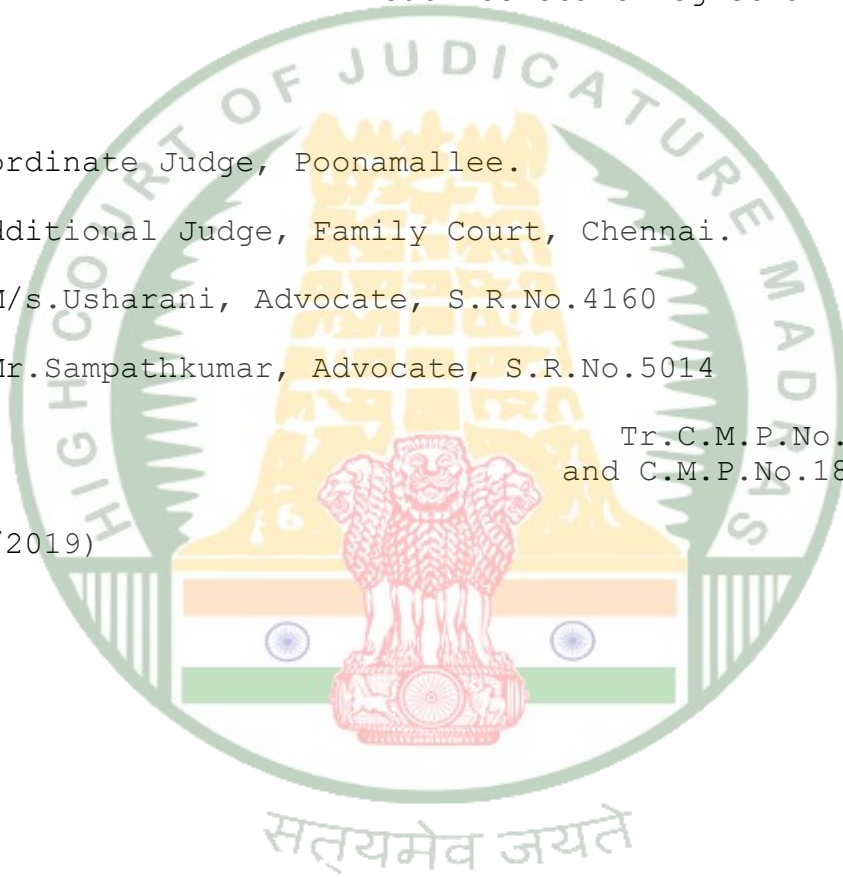
2.The V Additional Judge, Family Court, Chennai.

+1 cc to M/s.Usharani, Advocate, S.R.No.4160

+1 cc to Mr.Sampathkumar, Advocate, S.R.No.5014

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MG(CO)
SSM(13/02/2019)



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