

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.759 of 2018
and C.M.P.No.18617 of 2018

Sangeetha

..Petitioner/Respondent

versus

Manikandan

..Respondent/Petitioner

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw F.C.O.P.No.544 of 2018 pending on the file of the Family Court, Namakkal and transfer the same to the file of the Sub Court, Perambalur.

For Petitioner : Mr.C.Sangamithirai

For Respondent : No Appearance

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. F.C.O.P.No.544 of 2018 pending on the file of the Family Court, Namakkal and transfer the same to the file of the Sub Court, Perambalur.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 08.02.2015 at SMT Thangam Marriage Hall, Namakkal, as per Hindu rites and customs. Due to the wedlock, on 05.11.2015, the petitioner gave birth to one female child, namely, Mathithasree. After gave birth to the female child, difference of opinion arose between the petitioner and respondent, resultantly, the petitioner left the matrimonial home and residing along with her parents at N.Pudhur, Veppanthattai Taluk, Perambalur District.

3. After leaving the matrimonial home, the petitioner has filed a petition in H.M.O.P.No.111 of 2018 under Section 9 of the Hindu Marriage Act, 1955, against the respondent before the Sub Court, Perambalur, for the relief of restitution of conjugal rights. Further, she filed one another petition in M.C.No.46 of 2018 before the Magistrate Court, Perambalur, under

Section 125 Cr.P.C. in which, she is claiming maintenance from the respondent for herself and for her child. After receiving the notice in the above said cases, the respondent has filed a petition in F.C.O.P.No.544 of 2018 under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, before the Family Court, Namakkal, for the relief of annulling the marriage happened between them. 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.

4. According to the petitioner, she is residing along with her parents at Perambalur, the distance between her parents residence and Namakkal is about 120 kilometers, being a lady, it is very difficult for her to go to Namakkal for attending the Court proceedings. Further, she is not having any independent income and she is depending on her parents for her day-to-day needs and for litigation expenses. More than that, as of now, the petitions filed by the petitioner are pending before the Sub Court, Perambalur in H.M.O.P.No.111 of 2018 and the Magistrate Court, Perambalur in M.C.No.46 of 2018. Since these cases are related to matrimonial life of the petitioner and respondent, if the said petitions are tried separately, there may be a chance for coming out the conflicting decisions.

5. In respect to the respondent, he was served with Court notice as early as on 02.11.2018 and his name is printed in the cause list, thereafter till today, he has not appeared before this Court either in person or through counsel.

6. It is true, if the petitions, i.e., H.M.O.P.No.111 of 2018 and F.C.O.P.No.544 of 2018 are in respect to the matrimonial life of the petitioner and respondent. Since the prayer sought for by the petitioner as well as the respondent is related to the matrimonial life, if these cases are tried separately, there may be a chance for coming out the conflicting decisions. Further, since the petitioner is a lady it is very difficult for her in attending the Court proceedings at Namakkal after travelling 120 kilometers. More than that she is not having any independent income. Accordingly, the reason stated by the petitioner for allowing the petition is reasonable one.

7. In the result, the Transfer Civil Miscellaneous Petition is ordered. The petition in F.C.O.P.No.544 of 2018 is ordered to be withdrawn from the file of the Family Court, Namakkal and transferred to the file of the Sub Court, Perambalur. It is left open to the learned Subordinate Judge, Perambalur, to decide for joint trial or for simultaneous trial. The learned Judge, Family Court, Namakkal, is directed to transmit all the records pertaining to F.C.O.P.No.544 of 2018 to the file of the Sub Court, Perambalur, within a period of two weeks from the date of receipt of a copy of this order. On

receipt of records, the learned Subordinate Judge, Perambalur, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Judge,
Family Court, Namakkal.

2.The Subordinate Judge,
Perambalur.

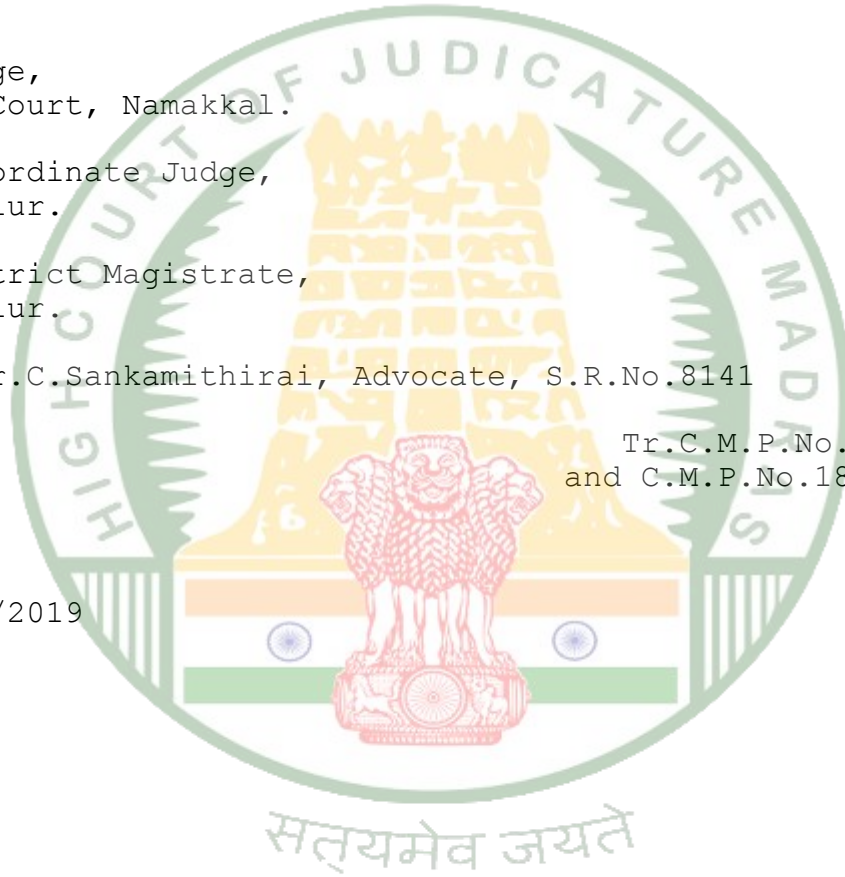
3.The District Magistrate,
Perambalur.

+lcc to Mr.C.Sankamithirai, Advocate, S.R.No.8141

Tr.C.M.P.No.759 of 2018
and C.M.P.No.18617 of 2018

AK(CO)

rrs 05/03/2019



WEB COPY