

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.807 of 2018
and C.M.P.No.19955 of 2018

Banupriya

..

Petitioner

versus

G.Vijay

..

Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.74 of 2018 pending on the file of the Principal Sub Court, Coimbatore and transfer the same to the file of the Family Court, Coimbatore, to be tried along with the Petition in M.C.No.195 of 2018 pending on its file.

For Petitioner : Mr.S.Silambu Selvan

For Respondent : Mr.A.Panneer Selvam

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.74 of 2018 pending on the file of the Principal Sub Court, Coimbatore and transfer the same to the file of the Family Court, Coimbatore, to be tried along with the Petition in M.C.No.195 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 23.05.2010 at Shanmuga Thirumana Mandapam, Periyapalam, Kulithalai, Karur District. Due to the wedlock, the petitioner gave birth to one male child on 12.06.2011. After gave birth to male child, difference of opinion arose between the petitioner and respondent, resultantly, the petitioner left the matrimonial home and residing along with her parents at Coimbatore.

3. After leaving the matrimonial home by the petitioner, the respondent has filed a petition before the Sub Court, Kulithalai, for the relief of annulling the marriage happened between them on 23.05.2010. The said petition was taken on file as H.M.O.P.No.86 of 2017 and subsequently, based on the order passed by the Madurai Bench of this Court in Tr.C.M.P.(MD) No.4 of 2018, transferred to the file of the Principal Subordinate Judge, Coimbatore and the same is pending now as H.M.O.P.No.74 of 2018.

4. In the meanwhile, the petitioner has filed a petition against the respondent before the Family Court, Coimbatore, under Section 125(a)(b) of Criminal Procedure Code, 1973, for the relief of maintenance. Now, the said petition is pending before the Family Court, Coimbatore as M.C.No.195 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. In respect to the respondent, the learned counsel appearing for the respondent has not raised any serious objection for allowing this petition.

6. Considering the facts and circumstances, if the both cases are tried in a same Court, it will be convenient for either parties for placing their cases in a proper way, ordering the transfer within the same place will not create any prejudice to either parties. So, considering the various parameters laid already by the Hon'ble Apex Court as well as by this Court, this Court came to the conclusion that transferring the H.M.O.P.No.74 of 2018 from the file of the Principal Sub Court, Coimbatore to the file of the Family Court, Coimbatore is convenient either to the petitioner as well as to the respondent.

7. In the result, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.74 of 2018 is ordered to be withdrawn from the file of the Principal Sub Court, Coimbatore and transferred to the file of the Family Court, Coimbatore. It is left open to the learned Judge, Family Court, Coimbatore, to decide for joint trial or for simultaneous trial. The learned Principal Subordinate Judge, Coimbatore, is

directed to transmit all the records pertaining to H.M.O.P.No.74 of 2018 to the file of the Family Court, Coimbatore, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Judge, Family Court, Coimbatore, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The Principal Subordinate Judge, Coimbatore.

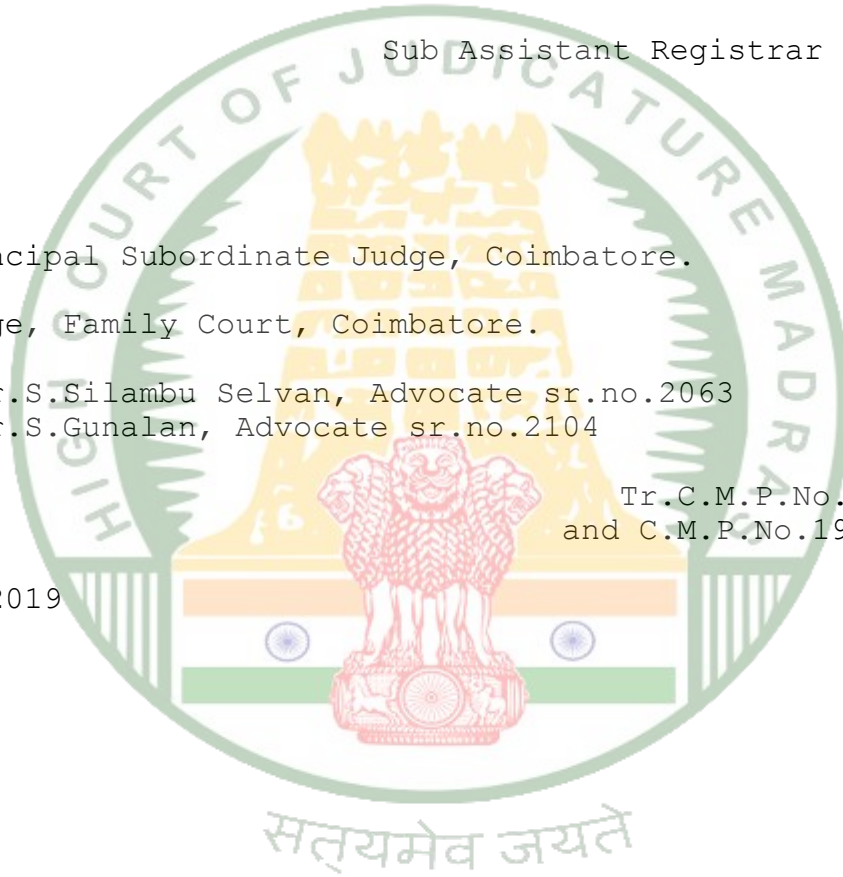
2.The Judge, Family Court, Coimbatore.

+1cc to Mr.S.Silambu Selvan, Advocate sr.no.2063

+1cc to Mr.S.Gunalan, Advocate sr.no.2104

Tr.C.M.P.No.807 of 2018
and C.M.P.No.19955 of 2018

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