

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.880 of 2018

and

C.M.P.No.21703 of 2018

P.Sakthivel

... Petitioner

Vs.

1. M.Suda

2. Srisaran (minor)

Represented by his natural
guardian mother M.Suda

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the suit in O.S.No.380 of 2018, on the file of the District Munsif Court, Dharapuram and transfer the same to the file of the Additional Family Court, Coimbatore, to be tried along with HMOP. No.776 of 2018 which is pending.

For Petitioner : Mrs.C.Sriranjani

For Respondent : Notice served-Name printed-
No appearance

ORDER

The Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the suit in O.S.No.380 of 2018, on the file of the District Munsif Court, Dharapuram and transfer the same to the file of the Additional Family Court, Coimbatore, to try along with HMOP. No.776 of 2018.

2. The petitioner and respondent are the husband and wife. The marriage was solemnized between them on 19.02.2009 at Kaniyur, Jhothampatti Village, Tirupur District as per Hindu Rites and Custom. In the lawful wedlock, a male child viz., Sri saran was born on 21.07.2011. After the marriage, the couples were leading a happy life for sometime. On several occasions, the respondent quarrelled with the petitioner for petty issues and left the matrimonial home. On 23.01.2018, the respondent left the home along with her child and she did not come back. Due to which, the petitioner has filed a petition in HMOP. No.776 of 2018, on the file of the Additional Family Court, Coimbatore for restitution of conjugal rights. On 01.08.2018, when the case was came up for hearing, the petitioner and the respondent had appeared before the learned Judicial Magistrate-VI, Coimbatore. At that time, the respondent's mother had beaten the petitioner in front of the public. The respondent was watching the incident and kept silent. She did not control her mother. Due to which, the petitioner has lodged a complaint against his mother in law before the Race Course Police Station, Coimbatore. As a counter blast the respondent has filed a suit in O.S.No.380 of 2018 for maintenance before the District Munsif Court, Dharapuram. The husband is the resident of Coimbatore and he seeks transfer of the maintenance case filed by his wife in O.S.No.380 of 2018 to the file of the District Munsif Court, Dharapuram, to try

along with HMOP. No.776 of 2018 which is pending before the same Court.

3. The learned counsel for the petitioner/husband would submit that the petitioner's eye vision is impaired by 75%, which is progressing from his birth. Therefore, he need someone's help for appearing before the Family Court, Coimbatore. Due to the poor vision, the petitioner could not travel alone from Coimbatore to Dharapuram. Therefore, it will be appropriate to transfer the maintenance case filed by his wife from Dharapuram to Coimbatore.

4. This Court ordered notice to the respondents on several times through Court as well as privately and the same was returned with an endorsement as "not claimed". Inspite of sufficient opportunities, she has not chosen to appear before this Court in person or through her counsel. Hence, this Court is inclined to dispose of the matter on merits in accordance with law.

5. Considering the convenience of the petitioner and physical hardship caused to him, this Court is inclined to transfer the case from Dharapuram to Coimbatore. Accordingly, O.S.No.380 of 2018 on the file of the District Munsif Court, Dharapuram is withdrawn and

transferred to the file of the Additional Family Court, Coimbatore, to be tried along with HMOP. No.776 of 2018.

6. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

05.11.2019

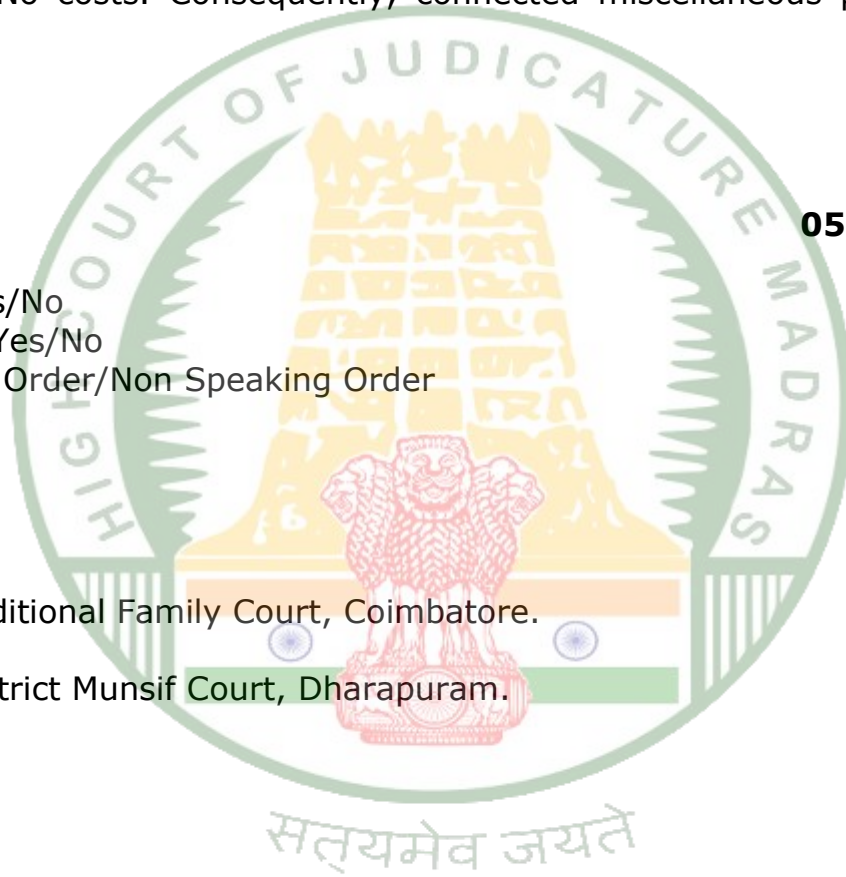
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To

1.The Additional Family Court, Coimbatore.

2.The District Munsif Court, Dharapuram.

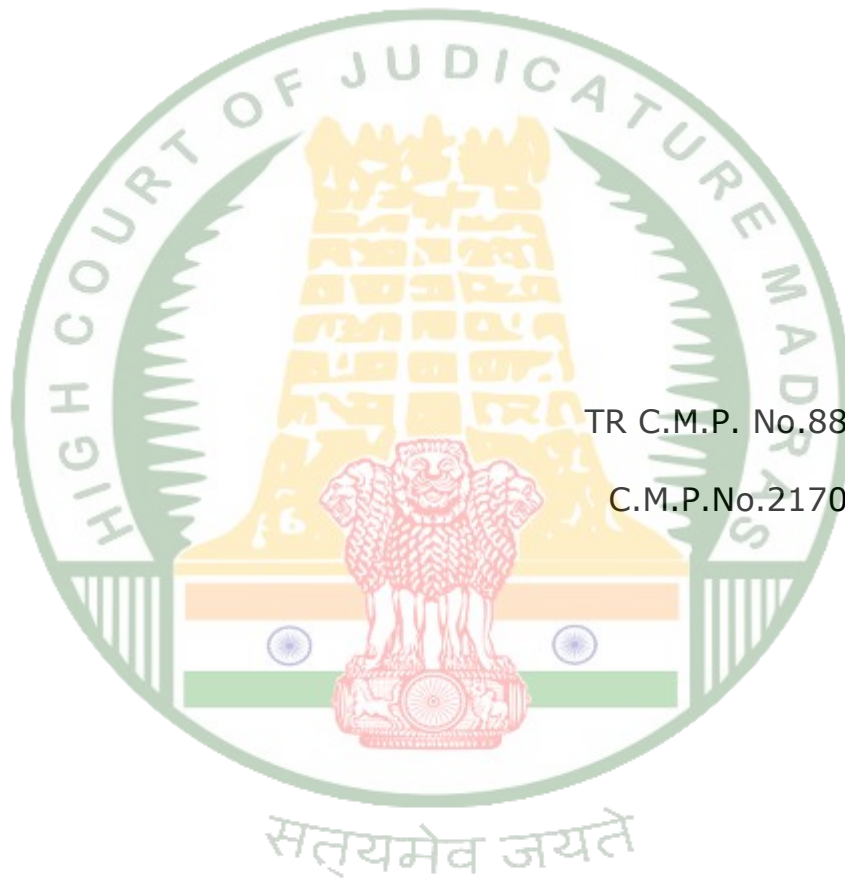


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V.BHAVANI SUBBAROYAN., J.

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