

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2019

Coram:

The Honourable Mr. Justice R. PONGIAPPAN

Transfer CMP No.874 of 2018
and C.M.P.No.21564 of 2018

V.Banupriya

Petitioner

Versus

K.Vishnumoorthy

Respondent

PRAYER: Transfer Civil Miscellaneous petition has been filed under Section 24 of the Civil Procedure Code to withdraw H.M.O.P.No.520 of 2018 from the file of the Subordinate Court, Ponamallee, and to transfer the same to the file of the Subordinate Court, Mayiladuthurai.

For Petitioner : Mrs.Alamelumangai

For Respondent : Mr.R.Sankarakutralingam

O R D E R

The petitioner is the respondent in H.M.O.P.No.520 of 2018 pending on the file of the Subordinate Court, Ponamallee. She has filed this application before this Court, for the relief to withdraw the above said H.M.O.P.No.520 of 2018 from the file of the Subordinate Court, Ponamallee, and to transfer the same to the file of the Subordinate Court at Mayiladuthurai.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 24.01.2011, according to the Hindu rites and customs. Due to the wedlock, the petitioner gave birth to two children. Now they have aged about seven years and one and half years. After gave birth to two children, due to the difference of opinion arose between the petitioner and the respondent, the petitioner left the matrimonial home and staying with her parents at Kattucherry, Nagapattinam District.

3. After leaving the matrimonial home by the petitioner, the respondent has filed an application before the Subordinate Court, at Ponamallee, for the relief of dissolution of marriage happened between the petitioner and the respondent on 24.01.2011. As of now, the said application has been pending with the Subordinate Court, Ponamallee in H.M.O.P.No.520 of 2018.

4. In the said circumstances, the petitioner has approached this Court by way of filing this petition for the relief stated in the paragraph No.1 of this Order.

5. Today, I heard the arguments of Mrs.N.Alamelumangai, learned counsel for the petitioner and Mr.R.Sankarakutralingam, learned counsel for the respondent.

6. According to the petitioner, the distance between the petitioner's residence and Ponamallee, is about 200 Kms., the petitioner is not having any independent income, and she is depending upon her parents for her day to day expenses and for maintaining her children. So, it is very difficult for her to attend the Court proceedings in Ponamallee.

7. On the other hand, the learned counsel appearing for the respondent would contend that, it is not difficult for the petitioner in attending the Court proceedings at Ponamallee.

8. Now, considering the facts and circumstances, it is an admitted fact that the petitioner was residing in Kattucherry post, which was situated near to the Subordinate Court, Mayiladuthurai. Further, being a lady it is very difficult for her to attend the Court proceedings at Ponamallee, after travelling from Mayiladuthurai along with her two children.

9. In the said circumstances, it is relevant to see the Judgments of our Honourable Apex Court reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs.Kumar Sanjay and another]. In the said Judgments it was held that the convenience of the wife must be given preference in deciding these types of application. Now, in view of the fact that the petitioner is residing near to Mayiladuthurai, and also due to the reason that she is not having any independent income. It is very difficult for her in attending the Court proceedings at Poonamalle. On the other hand, in respect to the respondent being the male member travelling 200 kms., for attending the Court is not a difficult one. Accordingly, I am of the considered view that the prayer sought by the petitioner is having merits.

9. In the light of the above discussions, this Transfer Civil Miscellaneous Petition is allowed. The case in H.M.O.P.No.520 of 2018 is ordered to be withdrawn from the file of the Subordinate Court, Ponamallee, and transferred to the file of the Subordinate Court, Mayiladuthurai. The learned Subordinate Judge, Ponamallee, is directed to transmit all the records pertaining to H.M.O.P.No.520 of 2018 to the file of the Subordinate Court, Mayiladuthurai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Subordinate Judge,

Mayiladuthurai, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

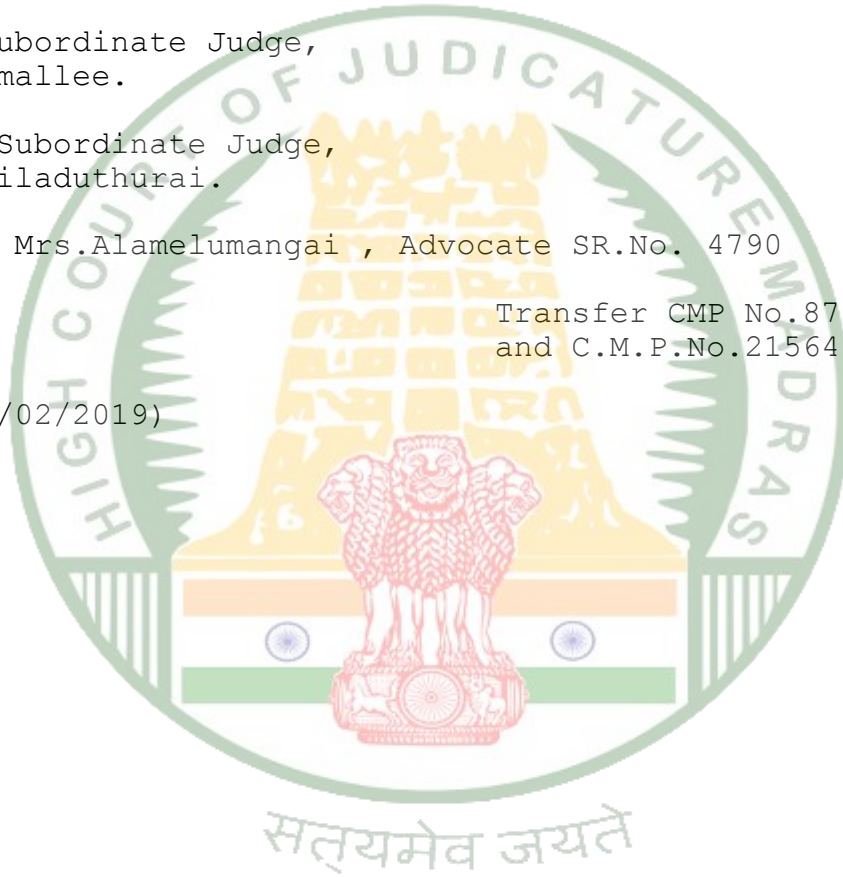
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To

- 1.The Subordinate Judge,
Ponamallee.
2. The Subordinate Judge,
Mayiladuthurai.

+1cc to Mrs.Alamelumangai , Advocate SR.No. 4790

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A.SK (26/02/2019)



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