

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

TR.C.M.P.No.795 of 2018
and C.M.P.No.19668 of 2018

S.Sakunthala

... Petitioner

-VS-

Saravanan

... Respondent

Prayer: Petition is filed under Section 24 of C.P.C. to withdraw H.M.O.P.No.2 of 2018 on the file of the Subordinate Judge, Palacode, Dharmapuri District and transfer the same to the file of Subordinate Judge, Sangagiri, Salem District for joint disposal along with H.M.O.P.No.47 of 2018 on the file of the Subordinate Judge, Sangagiri, Salem District.

For Petitioner : Mr.M.Santhanaraman

For Respondent : Mr.D.Gopal

O R D E R

This petition has been filed to transfer the case in H.M.O.P.No.2 of 2018 pending on the file of the Subordinate Judge, Palacode, Dharmapuri District to the file of the Subordinate Judge, Sangagiri, Salem District to be tried with H.M.O.P.No.47 of 2018.

2. The learned counsel for the petitioner has submitted that the respondent is employed at Palacode and is residing there. However, the notice sent to the address at Palacode has been returned with an endorsement that the respondent has vacated the premises. He has further submitted that the petitioner / wife has to travel from Salem to Palacode, Dharmapuri District to attend the hearings in H.M.O.P.No.2 of 2018 filed by the husband for divorce before the Subordinate Court, Palacode, Dharmapuri District and therefore, the case may be transferred to the Subordinate Court, Sangagiri, Salem District, in which, the petitioner has already filed a case in H.M.O.P.No.47 of 2018 for restitution of conjugal rights.

3. It is represented by the learned counsel for the respondent that the respondent is at present employed at Tiruchengode and all the matters may be transferred to the Family Court, Salem so that a composite order may be passed by the Family Court, Salem.

4. Heard the learned counsel for the parties.

5. The conduct of the respondent is not appreciated, as notice sent to the address at Palacode has been returned, stating that he had already vacated the premises. It is stated that now, the respondent is employed at Tiruchengode. It is pertinent to state here that no cause of action has arisen either at Palacode or at Tiruchengode, as the marriage of the parties is said to have taken place in Salem District only. That apart, H.M.O.P.No.47 of 2018 filed by the wife is pending before the Subordinate Court, Sangagiri, Salem District.

6. It is to be noted that as far as Subordinate Courts are concerned, Advocates can represent the parties, whereas in Family Courts, the appearance of parties is compulsory, unless they give consent to their Lawyers to represent them before the Family Court in their absence. Since a substantial cause of action has arisen in Sangagiri, there is every justification on the part of the petitioner in seeking transfer of the case in H.M.O.P.No.2 of 2018 from the file of the Subordinate Court, Palacode, Dharmapuri District to the file of the Subordinate Court, Sangagiri, Salem District for joint disposal to be heard along with H.M.O.P.No.47 of 2018.

7. In the result, the Transfer Civil Miscellaneous Petition is allowed, with a direction to the Subordinate Court, Palacode, Dharmapuri District to transfer the case in H.M.O.P.No.2 of 2018 to the file of the Subordinate Court, Sangagiri, Salem District, within a period of two weeks from the date of receipt of a copy of this order. On such transfer, the Transferee Court, namely, the Subordinate Court, Sangagiri, Salem District is directed to take up the case in H.M.O.P.No.2 of 2018 along with H.M.O.P.No.47 of 2018 and proceed with the same jointly, without adjourning the matter beyond 15 working days at any point of time and bring the issues to a logical end as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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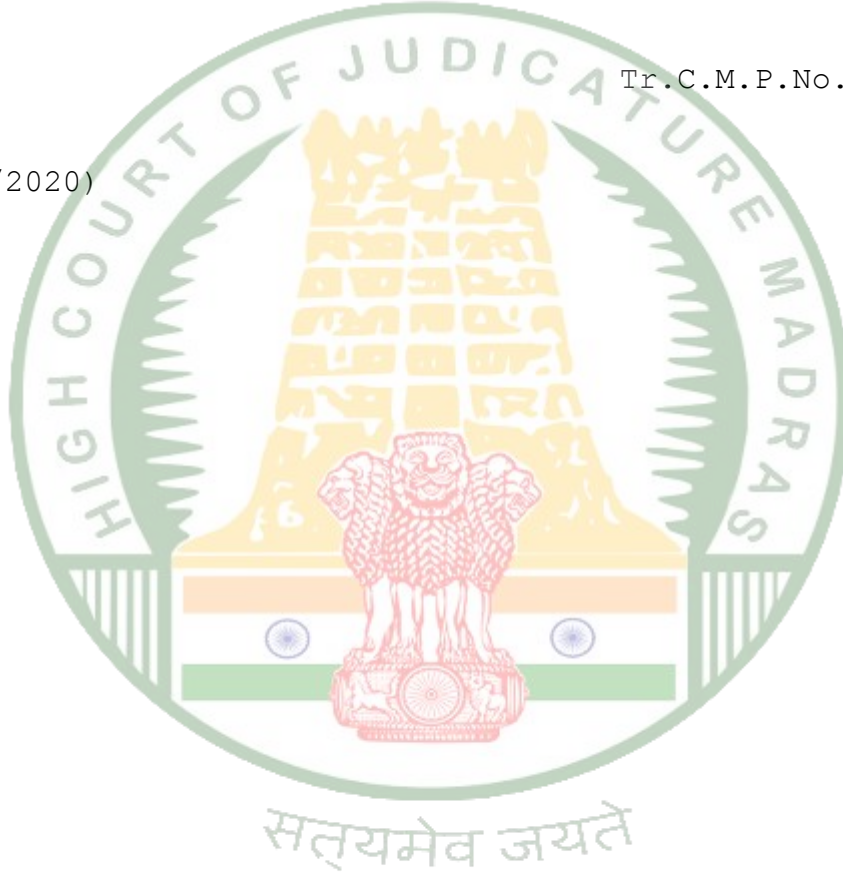
1. The Subordinate Judge,
Palacode, Dharmapuri District.
2. The Subordinate Judge,
Sangagiri,
Salem District.

+lcc to M/s. D.Gopal, Advocate, S.R.No.8426

+lcc to Mr.M.Santhanaraman, Advocate, S.R.No.8498

Tr.C.M.P.No.795 of 2018

sai (CO)
jrs (29/05/2020)



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