

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.230 of 2016
and C.M.P.No.6447 of 2016

Babychitra

... Petitioner

Vs.

Prabakaran

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.217 of 2014 from the file of the Sub-Court, Mettur, Salem District and transfer to the file of the Sub-Court, Rasipuram, Namakkal District and pending on its file.

For Petitioner : Mr.I.C.Vasudevan

For Respondent : No Appearance

O R D E R

The petition is filed to withdraw H.M.O.P.No.217 of 2014 from the file of the Sub-Court, Mettur, Salem District and transfer to the file of the Sub-Court, Rasipuram, Namakkal District.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 07.03.2012 as per Hindu rites and customs. After marriage, both were living matrimonial life at the respondent's house at Mecheri. Due to the influence of the parents of the respondent, the respondent left the petitioner at her parent's house on 21.10.2014. Subsequently, the respondent did not take the petitioner to matrimonial home and hence, the petitioner filed H.M.O.P.No.4 of 2015 for restitution of conjugal rights before the Sub-Court, Rasipuram. The respondent filed H.M.O.P.No.217 of 2014 before the Sub-Court, Mettur, Salem District, for divorce.

3. According to the petitioner, she is residing at Rasipuram in Namakkal District and living along with her aged parents at Rasipuram. She is not having any independent income, it is very difficult for her to travel from Rasipuram to Mettur regularly

to attend the Court hearings. Therefore, she prays for transfer of H.M.O.P.No.217 of 2014 from the file of the Sub Court, Mettur, Salem District to the file of the Sub Court, Rasipuram, Namakkal District to be tried along with the petition in H.M.O.P.No.4 of 2015 filed by her seeking restitution of conjugal rights.

4. Though notice served and the name of the respondent has been printed in the cause list, there is no representation on behalf of him either in person or through counsel.

5. Heard the learned counsel for the petitioner.

6. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall given preference, as held by the Hon'ble Supreme Court in the Judgements 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].

7. Having regard to the submissions made by the learned counsel for the petitioner along with the above decision, the petition in H.M.O.P.No.217 of 2014 is ordered to be withdrawn from the file of the Sub-Court, Mettur Salem District and transferred to the file of the Sub-Court, Rasipuram, Namakkal District to be tried along with H.M.O.P.No.4 of 2015. The learned Sub-Court, Mettur, is directed to transmit all the records pertaining to H.M.O.P.No.217 of 2014 to the file of the Sub-Court, Rasipuram, within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. The learned Judge, Sub Court, Rasipuram, is directed to dispose both the H.M.O.P. as expeditiously as possible, in any event not later than four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

dm/jv

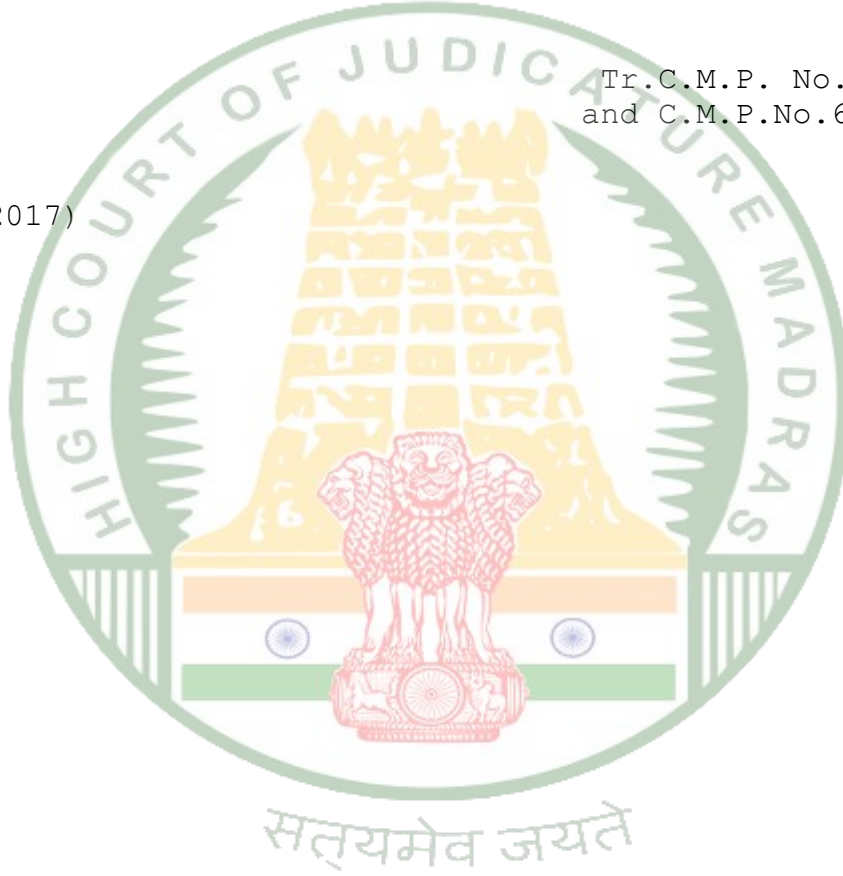
To

1. The Subordinate Judge, Mettur,
Salem District.
2. The Subordinate Judge, Rasipuram,
Namakkal District.

+1cc to M/S.I.C.Vasudevan, Advocate Sr. 45938

GJII(CO)
VR(27/07/2017)

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