

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

TR.C.M.P.No.708 of 2018

J.Wesly Raj

.. Petitioner

Vs.

V.S.Gladys Kezia

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 CPC to withdraw IDOP.No.41 of 2018 from the file of Family Court, Chengalpattu and transfer the same to the file of V Additional Family Court, Chennai to be tried with connected O.P.No.3970 of 2013 pending on its file.

For petitioner : Mr.K.Gajendiran

For respondent : Mr.G.Senthil Kumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of CPC seeking the relief to withdraw the case in IDOP.No.41 of 2018 pending on the file of Family Court, Chengalpattu and to transfer the same to the file of V Additional Family Court, Chennai to be tried alongwith connected O.P.No.3970 of 2013, which has been filed by the petitioner for the relief of divorce.

2. The petitioner is the husband and the respondent is his wife. On 22.08.2012, the marriage between the petitioner and the respondent was conducted as per the Christian rites and customs. After the marriage, the respondent leading her matrimonial life at Chennai along with the petitioner. After some time from the date of marriage, a difference of opinion arose between the petitioner and the respondent. Consequently, the respondent left the matrimonial home and living separately alongwith her parents at Chengalpet.

3. In the mean time, the petitioner filed a petition before the Fourth Additional Family Court, Chennai for annulling the marriage happened between the petitioner and the respondent. The said petition has been pending before the Fourth Additional Family Court, Chennai in OP.No.3970 of 2013. The respondent also filed a petition before the Family Court at Chengalpet for the relief of restitution of conjugal rights against the

petitioner. The said petition has been pending before the Family Court, Chengalpet in IDOP No.41 of 2018.

4. According to the petitioner, since he is working as a Head Constable at Chennai City in the Tamilnadu Police Service, it is very difficult for him to attend the Court proceedings at Chengalpet.

5. Per contra, after filing counter affidavit, the learned counsel for the respondent would contend that it is not difficult to the petitioner to attend the Court proceedings at Chengalpet. Further, he added that since the respondent is having five year old child, it is very difficult for her to attend the Court proceedings before the Fourth Additional Family Court at Chennai.

6. Today, when the matter is taken up for consideration, learned counsel on either side admitted that as per the order passed by the Judicial Magistrate, Tambaram, the petitioner is paying Rs.5000/- as monthly maintenance regularly to the respondent. Even though the convenience of the wife has to be taken into account, it is a typical case that if the case in IDOP No.41 of 2018, pending before the Family Court Chengalpet is not transferred to the Fourth Additional Family Court at Chennai, it is very difficult for the petitioner to attend his duty at Chennai. In other words, since the maintenance amount is regularly paid by the petitioner, it is very easy for the respondent to meet out the day today expenses. Accordingly, considering the fact that the petitioner is employed with Uniformed Services at Chennai and also the fact that the petition filed by the petitioner was pending before the Fourth Additional Family Court, Chennai from the year 2013 onwards, it is appropriate to give such a direction to the trial Court for disposing of both the cases as expeditiously as possible. Hence, this Court is inclined to allow this petition.

7. Accordingly, this petition is allowed. The learned Judge, Family Court Chengalpet is directed to transmit all the records pertaining to IDOP No.41 of 2018 to the file of Fourth Additional Family Court, Chennai within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Judge, Fourth Additional Family Court, Chennai, is directed to dispose of the case within a period of six weeks. No costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Fourth Additional Family Court,
Chennai

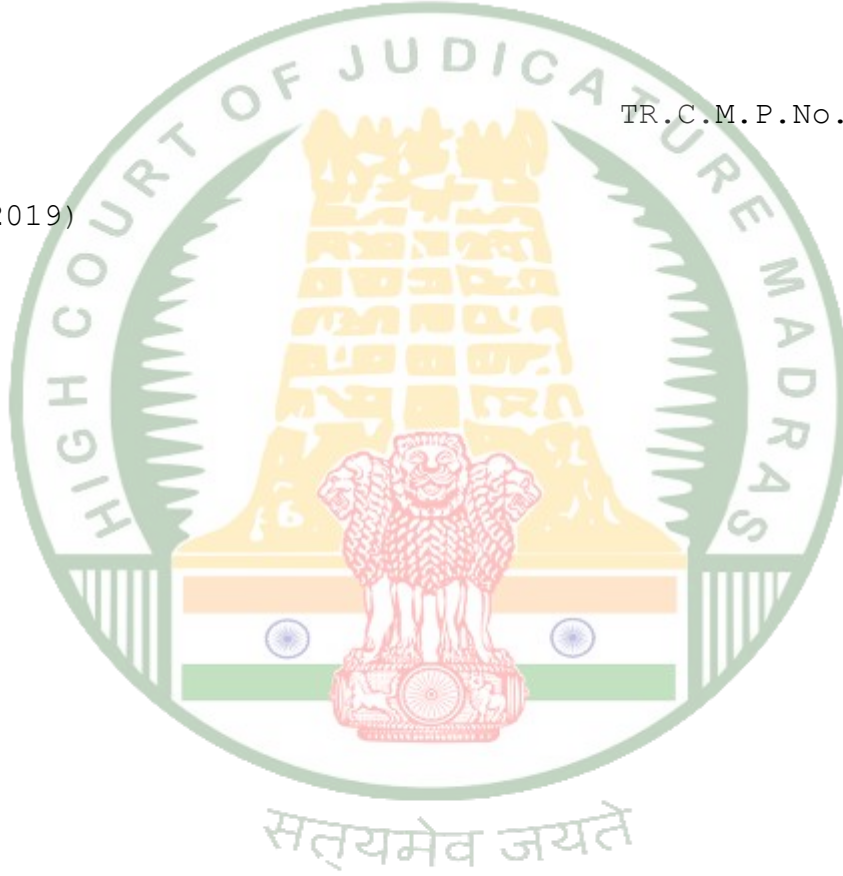
2. The Judge,
Family Court Chengalpet

+lcc to Mr.G.Senthil Kumar, Advocate, S.R.No. 88021

+lcc to Mr.K.Gajendiran, Advocate, S.R.No. 87633

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GN(09/01/2019)



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