

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.396 of 2019
and C.M.P. No.10765 of 2019

S.Saranya ... Petitioner

-vs-

A.Dinesh ... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the petition in H.M.O.P. No.152 of 2018 pending on the file of the Family Court, Tiruchirapalli and transfer the same to the file of the Subordinate Judge, Mayiladuthurai for Trial and enquiry in accordance with law.

For Petitioner : Mr.C.T.Saravanan

For Respondent : Mr.D.S.Haroon Rasheed

O R D E R

The Transfer C.M.P. has been filed to transfer the H.M.O.P. No.152 of 2018 pending on the file of the Family Court, Tiruchirapalli to the file of the Subordinate Judge, Mayiladuthurai.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 09.04.2017, as per Hindu rites and customs and out of the wedlock, the petitioner has given birth to a male child, now aged about two years. Due to difference of opinion arose between themselves, the respondent has filed a petition in H.M.O.P. No.152 of 2018 before the Family Court, Tiruchirappalli seeking dissolution of marriage making false allegations against the petitioner. According to the learned counsel appearing for the petitioner, the petitioner was not employed and unable to maintain the day to day expenses and medical expenses. Whereas, the respondent, working as Manager in a ration shop, has been earning Rs.20,000/- per month. This apart, he is also owing landed property. Therefore, the

petitioner has filed a petition under Domestic Violence Act in D.V.C. No.7 of 2018 before the Judicial Magistrate, Sirkali, Nagapattinam District and the same is pending. According to the learned counsel appearing for the petitioner, since the petitioner is unemployed and she was not having sufficient income to travel from Sirkali to Trichirappalli, she finds it difficult to travel and if the said H.M.O.P. No.152 of 2018 is transferred to the file of the Subordinate Judge, Mayiladuthurai, no prejudice will be caused to the respondent.

3.By filing a counter affidavit, learned counsel appearing for the respondent would submit that after a long gap of filing of H.M.O.P. No.152 of 2018, the petitioner has filed the case under Domestic violence Act in D.V.C.No.7 of 2018 on the file of the Judicial Magistrate, Sirkali, Nagapattinam District against the respondent making several allegations against the respondent. According to the learned counsel appearing for the respondent, when the said matter was taken up on 14.08.2018, the respondent appeared before the Judicial Magistrate, Sirkali along with his mother, but the petitioner has not come forward to appear. However, the respondent, who was working as a Manager in ration shop, earning only a sum of Rs.9,382/- per month and with the small income, the respondent has to look after his mother. Therefore, the Tr.C.M.P is liable to be dismissed.

4.Taking note of the fact that the petitioner is having two years old child and it is not only difficult for her, but also difficult for the small child, aged about two years to undertake a long journey from Sirkali to Trichirappalli, this Court is inclined to transfer the H.M.O.P. No.152 of 2018 pending on the file of the Family Court, Trichirappalli to the file of the Subordinate Court, Mayiladuthurai. Accordingly, the Tr. C.M.P. is allowed and the H.M.O.P. No.152 of 2018 pending on the file of the Family Court, Trichirappalli is withdrawn and transferred to the file of the Subordinate Court, Mayiladuthurai.

5.The Subordinate Court, Mayiladuthurai is directed to take up the case and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.10765 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

1.The Family Court,
Trichirappalli.

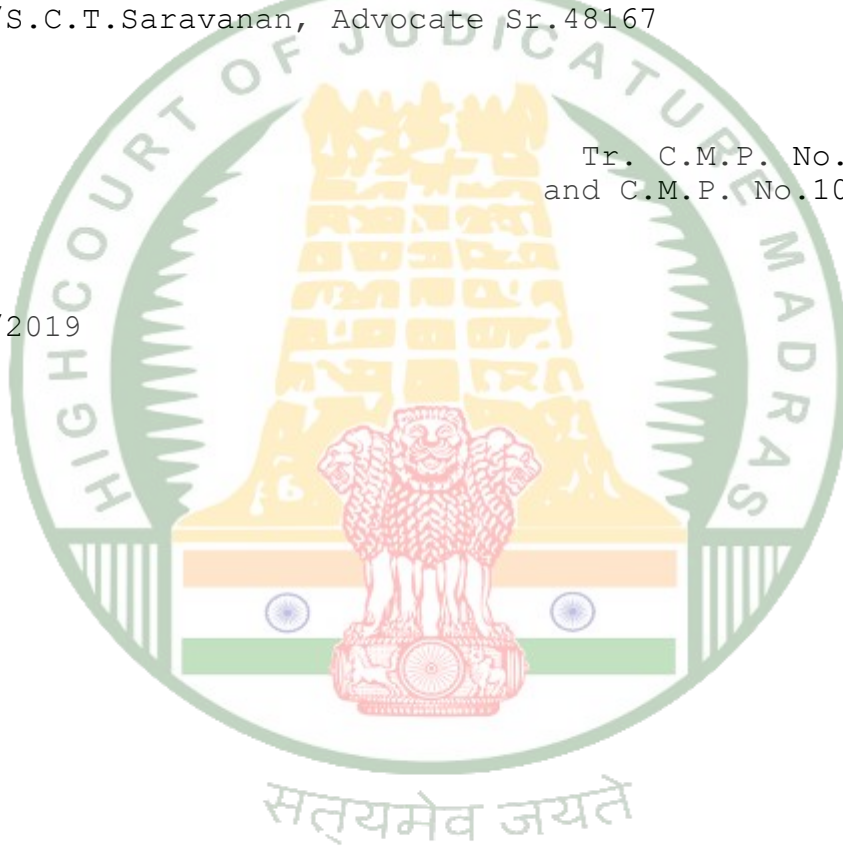
2.The Subordinate Judge,
Mayiladuthurai.

+2cc to Mr.A.Raja Mohamed, Advocate Sr.48411

+1cc to M/S.C.T.Saravanan, Advocate Sr.48167

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srg 12/07/2019



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