

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.246 of 2019
and C.M.P. No.7311 of 2019

S.Vinupriya

... Petitioner

-vs-

D.Ganeshperumal

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to transfer the case HMOP No.51 of 2019 on the file of the Family Court, Salem to Family Court, Erode and tried along with FCOP No.35 of 2018 on the file of Family Court, Erode and direct the Family Court, Erode to dispose the FCOP No.35 of 2018 and HMOP No.51 of 2019 at the earliest within a time frame as may be fixed by this Court.

For Petitioner : Mr.Silambanan
Senior Counsel for
Mr.M.Senthamizh Selvan

For Respondent : Mr.D.Shivakumaran

O R D E R

The Transfer C.M.P. has been filed to transfer the H.M.O.P. No.51 of 2019 pending on the file of the Family Court, Salem to the Family Court, Erode to be tried along with F.C.O.P. No.35 of 2018.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 02.04.2014 at Sri Parai Vinayaga Perumal Temple, Karungalpalayam, Erode and the petitioner, after completing the M.B.B.S course, joined JIPMER at Pondicherry to do her post graduate in Dermatology. Due to some difference of opinions arose between themselves, the petitioner filed divorce petition in F.C.O.P. No.35 of 2018 under Section 13(1)(i)(a) of the Hindu Marriage Act, 1955 before the Family Court, Erode on the ground of cruelty against the respondent. In order to further harass the petitioner, the respondent filed H.M.O.P. No.51 of 2019 for

restitution of conjugal rights under Section 9 of Hindu Marriage Act, 1955 before the Family Court, Salem. Since the petitioner has been serving as a Dermatologist at Erode, if the H.M.O.P. No.51 of 2019 pending on the file of the Family Court, Salem is transferred to the file of the Family Court, Erode, no prejudice will be caused to the respondent.

3.Learned counsel appearing for the respondent would submit that both the petitioner and the respondent belong to Salem. Although marriage took place at Erode, the petitioner, who has been serving in JIPMER at Puducherry, is required to attend the Court proceedings before the Family Court, Erode. Since she has to undertake journey from Puducherry to Erode, instead of coming to Family Court, Erode, she can very well come and attend the Family Court, Salem.

4.When the petitioner is admittedly serving in JIPMER at Puducherry as a Dermatologist, it is not known why she has chosen the Family Court, Erode for filing the F.C.O.P. No.35 of 2018 seeking divorce. Although it is contended that the marriage took place at Erode, considering the facts that the respondent has filed H.M.O.P. No.51 of 2018 before the Family Court, Salem and both the parties are living at Salem, this Court is inclined to transfer the F.C.O.P. No.35 of 2018 pending before the Family Court, Erode to the file of the Family Court, Salem. Accordingly, the Tr. C.M.P. is disposed of and the F.C.O.P. No.35 of 2018 pending before the Family Court, Erode is withdrawn and transferred to the file of the Family Court, Salem.

5.The Family Court, Salem is directed to take up both the cases and dispose of the same within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, C.M.P. No.7311 of 2019 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

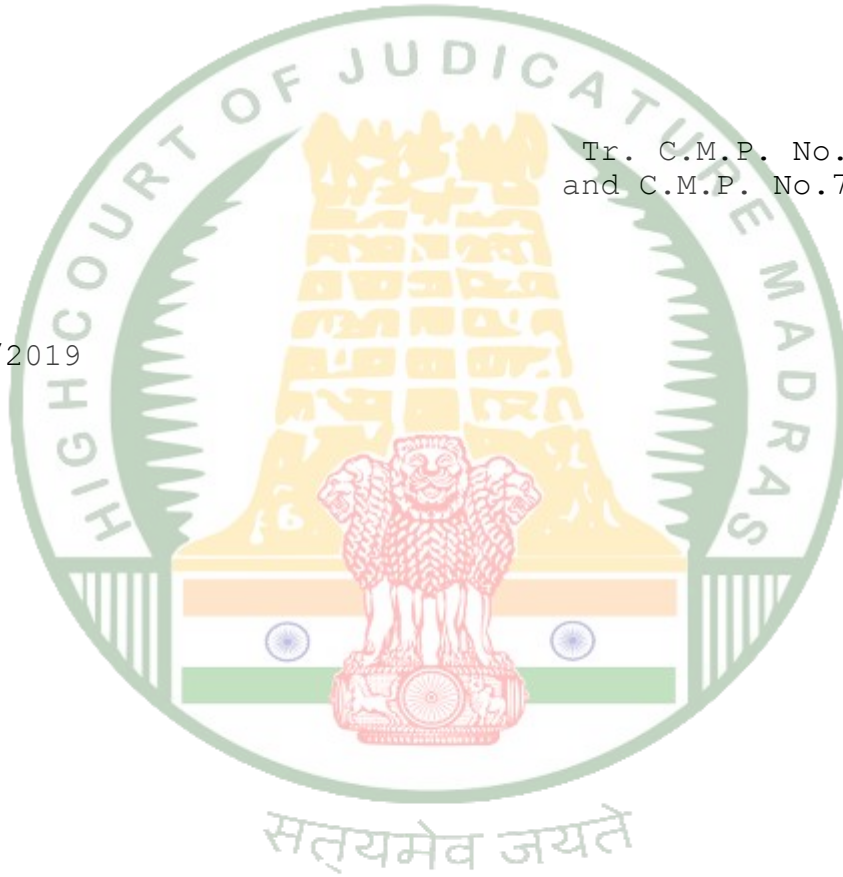
1.The Judge,
The Family Court, Erode.

2.The Judge,
The Family Court, Salem.

+lcc to Mr.M.Senthamizhselvan, Advocate Sr.53337
+lcc to M/s.D.Shivakumaran, Advocate Sr.52796

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