

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12/12/2019

C O R A M:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Tr.C.M.P. No.333 of 2019
and C.M.P. No.9553 of 2019

Mrs.Lokanayaki @ Sridevi Aishwarya ... Petitioner

Vs.

R.Rubeshraj ... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer H.M.O.P. No.4155 of 2017 pending on the file of III Additional Family Court at Chennai to the file of Family Court, Erode, to be tried along with M.C. No.56 of 2018 pending there.

For Petitioner : Mr.S.V.D.Rajendra Prasad

For Respondent : Mr.M.Sarfudeen Ali Ahamed

ORDER

On account of misunderstanding between the spouse, domestic violence case has been filed, which is pending on the file of learned Judicial Magistrate III, Erode in D.V.A. No.5 of 2018. Apart from the above, the petitioner herein/wife has also filed a maintenance claim petition in M.C. No.56 of 2018 before the Family Court, Erode. Husband of the petitioner has filed H.M.O.P. No.4155 of 2017 before the III Additional Family Court, Chennai, for restitution of conjugal rights. All the three cases are interconnected and that a reading of the affidavit filed in support of the transfer civil miscellaneous petition, appears that there is an ego clash among the spouse. Even for arriving at a settlement between the parties, it is advisable that all the matters are tried together in the same court.

2. Section 26 of the Protection of Women from Domestic Violence Act, 2005, is very clear that relief sought under certain provisions can be sought for in the Family Court, Civil Court or in the Criminal Court and that the petitioner would

submit that she has sought for monetary relief in the domestic violence case before the learned Judicial Magistrate III, Erode.

3. In order to avoid spending more time on litigation and in order to arrive at an amicable settlement, at the earliest point of time and if not early adjudication and that after the orders of Justice Anand Venkatesh, ordering interim maintenance to the petitioner herein/wife, maintenance of Rs.5,000/- has not been paid by the husband to the wife, and that the petitioner has no objection for the domestic violence case being transferred from the Court of Judicial Magistrate III, Erode to the Family Court, Erode, this court is inclined to order transfer of H.M.O.P. No.4155 of 2017 pending on the file of III Additional Family Court, Chennai, to the Family Court at Erode. It is further directed that the all the three cases may be tried by the Family Court, Erode without adjourning the matter beyond 30 days at any point of time.

4. The petitioner herein undertakes to take steps for transferring domestic violence case in D.V.A. No.5 of 2018 pending on the file of learned Judicial Magistrate III, Erode to Family Court, Erode and request the learned Judicial Magistrate III, Erode not to deal with the domestic violence case D.V.A. No.5 of 2018, filed by the petitioner herein, as the petitioner is going to take steps to get the matter transferred to Family Court, Erode.

5. With the above directions, the transfer civil miscellaneous petition is ordered. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

Asr

To

- 1) The III Additional Family Court,
Chennai.
- 2) The Family Court,
Erode.

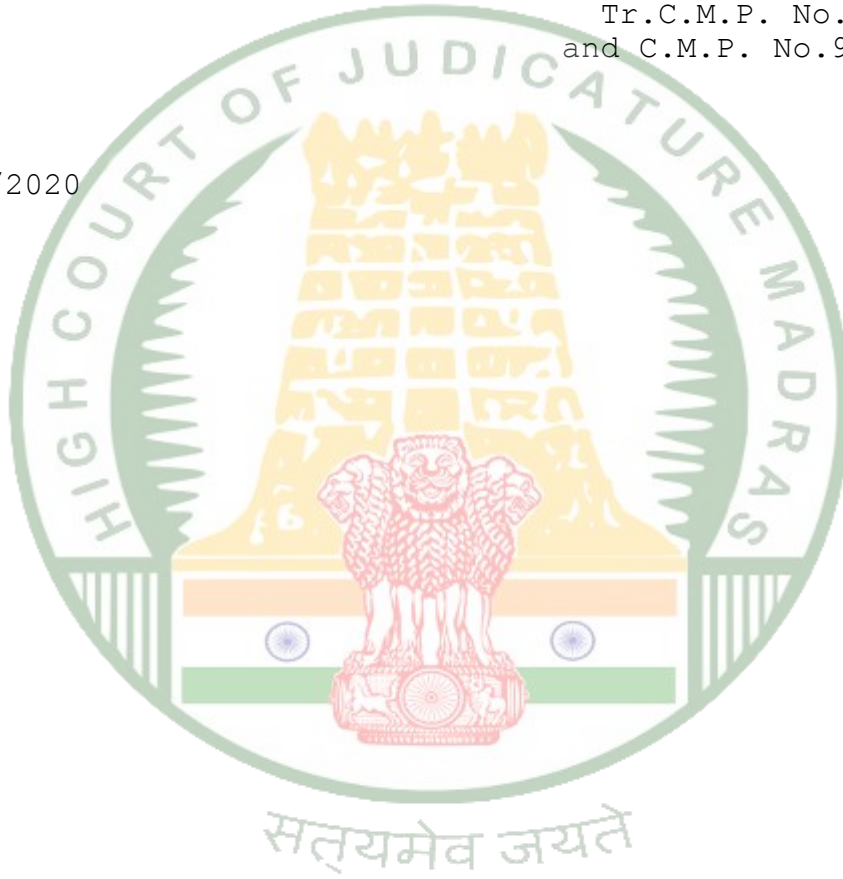
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3) The Judicial Magistrate III,
Erode.

4. The Chief Judicial Magistrate,
Erode.

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