

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.375 of 2019
and C.M.P. No.10476 of 2019

D.Karpagavalli

... Petitioner

-vs-

G.Dhanapal

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the H.M.O.P. No.36 of 2019 from the file of the Sub-Court, Srivilliputtur and transfer the same to Family Court, Chengalpattu.

For Petitioner : Mr.S.Anbu Raja

For Respondent : No appearance

O R D E R

The Transfer C.M.P. has been filed to transfer the H.M.O.P. No.36 of 2019 pending on the file of the Subordinate Court, Srivilliputtur to the file of the Family Court, Chengalpattu.

2.Learned counsel appearing for the petitioner would submit that after the marriage between the petitioner and the respondent was solemnised on 26.02.2012 at Nadar Thirumana Mandapam, Sundaranachiarapuram, Rajapalayam Taluk, as per Hindu rites and customs, the petitioner along with the respondent went to Tanzania, where the respondent is working. They lived there happily for one year. During October 2013, the petitioner and the respondent came to respondent's parents house in India. Since no child was born to them, there were misunderstanding arose between the petitioner and the respondent's parents. Further, due to ill advice of the respondent's mother, the respondent changed his mind and started harassing the

petitioner. Although both of them went to Tanzania, the petitioner alone returned to India during the month of December 2014 and while checking with the Doctor, she came to know that she was pregnant. The same was informed to the respondent and he instructed the petitioner to stay in India itself to take care of the child. Therefore, the petitioner stayed in India and gave birth to a female child, namely, Rushika Santhoshi. Thereafter, due to wrong astrological belief, the respondent started his cruelty against the petitioner. Finding no response from the respondent, the petitioner has filed the maintenance petition in F.C.M.C. No.7 of 2018 before the Family Court, Chengalpattu. In the meanwhile, the respondent has filed the H.M.O.P. No.36 of 2019 before the Sub-Court, Srivilliputtur seeking restitution of conjugal rights.

3.Learned counsel appearing for the petitioner would further submit that he had taken private notice to the respondent and the same has been served. However, the respondent neither chosen to appear in person nor through his counsel. Learned counsel appearing for the petitioner would further submit that as there was no other persons except the petitioner's parents to support the petitioner and to accommodate her for travelling from Urapakkam to Srivilliputtur, for every hearing, she finds it very difficult to attend the Court at Srivilliputtur which is about 542 kms. along with her small child. Therefore, if the H.M.O.P. No.36 of 2019 is transferred to the Family Court, Chengalpattu, no prejudice will be caused to the respondent.

4.A perusal of the records maintained by the registry shows that notice sent to the respondent on 10.05.2019 was received by the respondent. Proof of Service was also filed to the effect that the notice was served on the respondent.

5.Taking note of the fact that the petition in F.C.M.C. No.7 of 2018 filed by the petitioner for maintenance was pending before the Family Court, Chengalpattu and although notice has been served on the respondent, no one appeared on his behalf, which shows that the respondent has no objection in allowing the petition, this Court is inclined to transfer the H.M.O.P. No.36 of 2019 pending before the Sub-Court, Srivilliputtur to the file of the Family Court, Chengalpattu.

6.Accordingly, the Tr. C.M.P. is allowed and the H.M.O.P. No.36 of 2019 pending on the file of the Sub-Court, Srivilliputtur is withdrawn and transferred to the file of the Family Court, Chengalpattu.

7.The Famil Court, Chengalpattu is directed to take up both the cases together and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.10476 of 2019 is closed.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vga

To

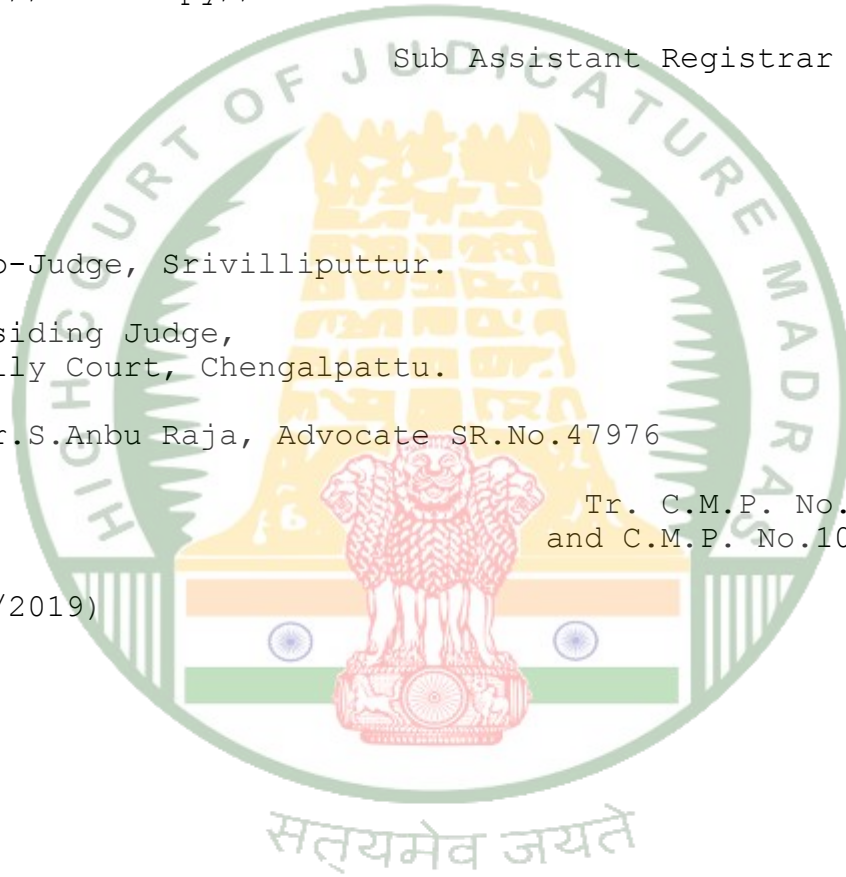
1.The Sub-Judge, Srivilliputtur.

2.The Presiding Judge,
The Family Court, Chengalpattu.

+lcc to Mr.S.Anbu Raja, Advocate SR.No.47976

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AD(CO)
GMY(22/07/2019)



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