

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr. CMP No.728 of 2019
and
CMP No.20488 of 2019

P. Jayabharathi @ Pavithra ... Petitioner
.Vs.
P. Rathish Kumar ...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of CPC, to withdraw and transfer the HMOP. No. 176 of 2019 pending on the file of the Sub Court, Kumbakonam to any one of the Family Courts at Chennai.

For Petitioner : Mr. M. Ganesan

For Respondent : Mr. K. Sathyavel

ORDER

The petitioner-wife has prayed before this Court to withdraw and transfer the HMOP. No. 176 of 2019 pending on the file of the Sub Court, Kumbakonam to any one of the Family Courts at Chennai.

2. The case of the petitioner is that she got married to the respondent on 26.02.2018 in accordance with the Hindu rites and rituals and both of them were working in Chennai and started their life in a rented house at Purasawakkam. Thereafter, some dispute arose between them. The respondent started commenting that the petitioner is no match for him and he ought to have married someone else. One day the respondent told the petitioner to give consent for divorce or else she has to face the consequences. On account of tamil month Aadi, the petitioner's parent brought her to their house. Meanwhile, the respondent vacated the house at Chennai, where they were staying together and had gone to stay with his bachelor friends at Nanganallur. The respondent also blocked the petitioner's mobile number and stopped talking to her. The respondent's mother had advised the petitioner to resign her job and stay with her at Kumbakonam, so that she would convince her son to take her back. As per the advice, the petitioner also resigned the job and stayed at Kumbakonam from October 2018 till February 2019. Later the respondent's mother has advised the petitioner to stay with her parents, so that she would advice her son to take her for resuming the marital life. The petitioner came back to Chennai during

February 2019 and till date the respondent did not take her back. On 09.08.2019, the petitioner received the summons from the Sub Court at Kumbakonam stating that the respondent has filed HMOP No.176 of 2019 for dissolution of the marriage held on 26.02.2018 and she was directed to appear before the said court on 19.08.2019. The petitioner submits that the respondent is working in a company by name ATOS IT Solutions and services at Chennai and wantonly he has filed this petition in Kumbakonam only to harass the petitioner even though the respondent is working in Chennai and the petitioner is also residing in Chennai. The petitioner further submits that the respondent/husband has unceremoniously left her under the care and custody of her parents who themselves are struggling hard to meet both ends through their meagre income. Moreover, the petitioner is also unemployed. Hence, the petitioner, prays to transfer the HMOP No.176 of 2019 filed by the respondent before the Sub Court, Kumbakonam to any one of the family courts at Chennai.

3. The counsel appearing for the respondent had filed a formal counter of the respondent wherein it is stated that the respondent, during the marriage proposal itself, conveyed to the petitioner that she has to take care of his mother and on her acceptance to the same only, the marriage was performed. In spite of the same, she did not resign her job and stay at Kumbakonam, instead, she wanted to live only at Chennai. The respondent also submitted that the petitioner is addicted to alcohol and never performed her duties as a wife. The respondent alleges that the petitioner/wife had gone to her parental home without informing anyone and she is living at Chennai separately, since February 2019. The respondent further states that the petitioner had accepted for a consent divorce and the agreement was reduced into writing and in the last minute, the petitioner did not sign in the same. Left with the no other alternative, the respondent has filed HMOP No.176 of 2019 for dissolution of the marriage. He further submitted that he is living with the meagre income of Rs.15,000/- and stated that it is not possible for him to travel to Chennai on each and every hearing if it is transferred from Kumbakonam to Chennai. He states that it is not possible for him, both physically and financially, to come to Chennai for conducting the case and hence the petition filed by the petitioner for transfer has to be dismissed.

4. The petitioner and respondent had lived together only for a short period and the respondent/husband has filed HMOP No.176 of 2019 before the Sub Court, Kumbakonam, which has to be defended by the petitioner/wife. Both of them have made allegations against each other. All these things have to be gone into detail in the trial. As per the statement of the petitioner, the respondent is working in Chennai, which has not been denied by the respondent by any evidence. Even assuming that the respondent is staying at Kumbakonam, as per the orders of the Supreme Court, this court is inclined to

withdraw and transfer HMOP No.176 of 2019 pending on the file of the Sub Court, Kumbakonam to any one of the Family courts at Chennai. Accordingly, HMOP No.176 of 2019 pending on the file of the Sub Court, Kumbakonam is withdrawn and transferred to Family Court, Chennai. Resultantly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar

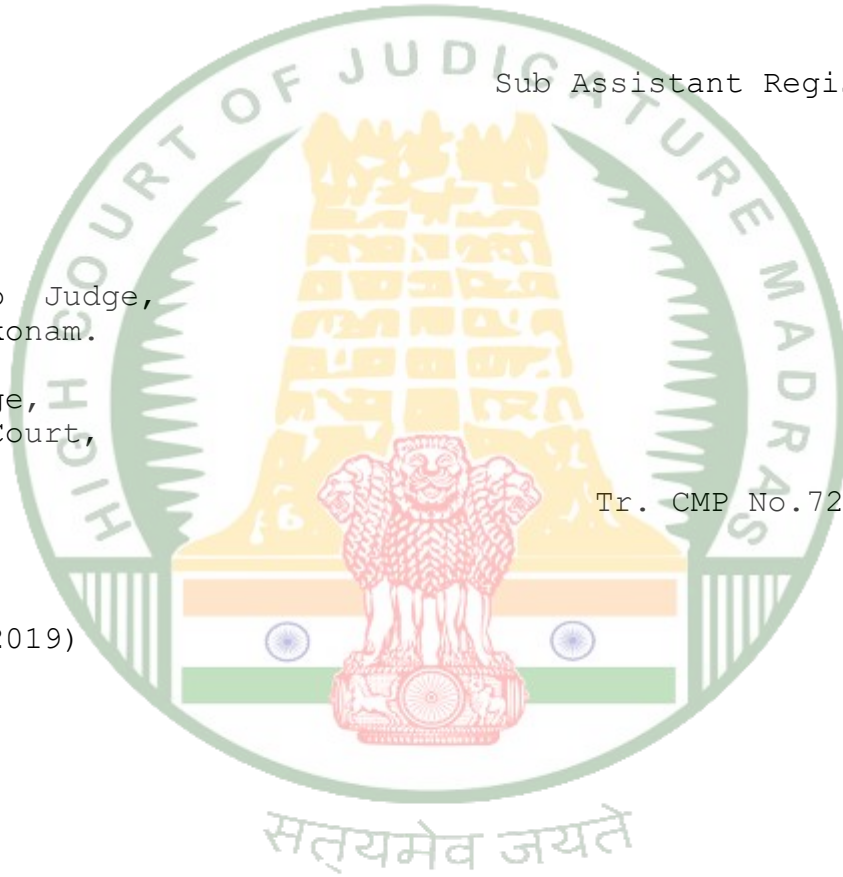
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To

1. The Sub Judge,
Kumbakonam.
2. The Judge,
Family Court,
Chennai.

Tr. CMP No.728 of 2019

NMI (CO)
GN (29/11/2019)



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