

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.742 of 2019
and
C.M.P.No.20785 of 2019

Aamsalekha

... Petitioner

Vs.

Arumugaraja

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw H.M.O.P.No.229 of 2018 from the file of Sub Judge, Tuticorin and to transfer the same to the file of Family Court, Coimbatore for trial and enquiry.

For Petitioner : Mr.T.Gnana Banu

For Respondent : Notice served - No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw and transfer H.M.O.P.No.229 of 2018 on the file of the Sub Judge, Tuticorin to the Family Court, Coimbatore.

2. The learned counsel for the petitioner would submit that the marriage of the petitioner and respondent was solemnized on 10.09.2010 and out of their wedlock the petitioner gave birth to a male child on 28.07.2011. Though the petitioner was provided with sufficient gold jewels, bike and other house hold articles at the time of marriage as Sreedhana the respondent and his family members started demanding dowry and driven out the petitioner from the marital house and the petitioner is living at her parents home in Coimbatore along with her child. The respondent/husband has filed H.M.O.P.No.229 of 2018 on the file

of the Sub Judge, Tuticorin for dissolution of marriage. Though the respondent is earning Rs.1,00,000/- p.m. he failed to maintain the petitioner and his son. The petitioner/wife has filed H.M.O.P.No.550 of 2019 on the file of the Family Court, Coimbatore for restitution of conjugal rights. The petitioner/wife has also stated that it is absolutely difficult for her to travel from Coimbatore to Tuticorin along with her child for each of the hearing. Hence, the transfer is sought for.

3. This Court ordered notice to the respondent through Court as well as privately and the same was served on him. In spite of giving sufficient opportunities, the sole respondent has not entered into appearance before this Court either in person or through his counsel. Therefore, this court is inclined to pass orders on merits in accordance with law.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Hence, this Court feels it appropriate to withdraw and transfer H.M.O.P.No.229 of 2018 from the file of Sub Court, Tuticorin to the Family Court, Coimbatore to be tried along with H.M.O.P.No.550 of 2019. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dpq

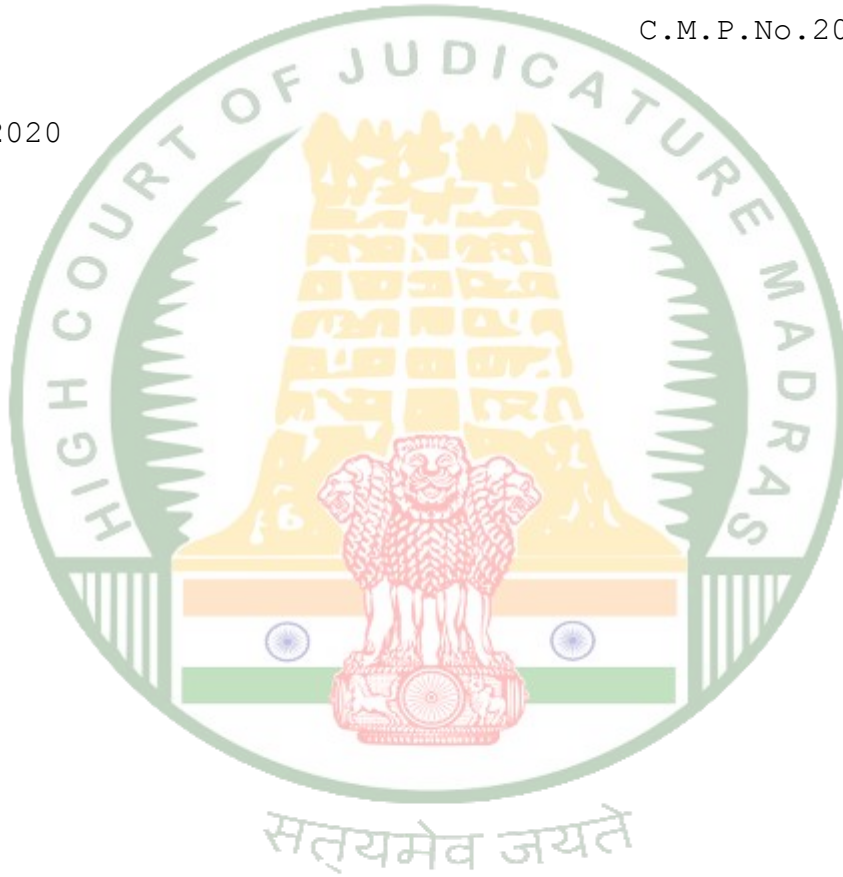
To

1. The Sub Judge, Tuticorin
2. The Family Court, Coimbatore

+lcc to Mr.T.Gnana Banu, Advocate sr.97914

TR C.M.P. No.742 of 2019
and
C.M.P.No.20785 of 2019

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