

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.769 of 2019
and
C.M.P.No.21478 of 2019

K. Ramadevi

... Petitioner

Vs.

R.Boominathan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in HMOP. No.53 of 2019 pending on the file of the Sub Judge, Mudukulathur and transfer the same to the Family Court, Chennai.

For Petitioner : Mrs.Geetha Ramaseshan

For Respondent : Mr.S.Parthasarathy

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the petition in HMOP. No.53 of 2019 pending on the file of the Sub Judge, Mudukulathur and transfer the same to the Family Court, Chennai.

2.The case of the petitioner is that she got married with the respondent on 26.02.2012 at Shanthanam Hall, Adambakkam as per Hindu rites and customs. After marriage, the couple was residing in a rented house at Chennai from 26.02.2012 and the husband/respondent was working in CSC Technologies Pvt Ltd., at Ramapuram, they were leading a happy married life. After some time the respondent/husband started to sell the jewels of the petitioner/wife, which was given to her during her marriage, but she opposed to do so, hence, the respondent left out from the matrimonial home on 25.05.2019 and went to Narasinghamapatti, where his parents are residing and filed a petition for divorce at Mudukulathur and has made false allegations against her.

3.The learned counsel for the petitioner submitted that now the petitioner is residing at Chennai along with parents and the Sub Court, Mudukulathur has no jurisdiction to entertain the petition, since, the marriage took place at Chennai and no cause of action arose in Mudukulathur and being a lady, the petitioner could not travel from Chennai to Mudukulathur and attend the Court proceedings. Because of this, she is facing physical as well as financial issues. He further submitted that the petitioner has no income, as she is unemployed and residing with her aged parents. Hence, she seeks transfer of H.M.O.P.No. 53 of 2019 pending on the file of the Sub Judge, Mudukulathur, filed by the husband to the Family Court, Chennai. If the case is transferred to Chennai, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by the husband from Mudukulathur to Chennai.

4.The learned counsel for the respondent submitted that the respondent has filed a petition at Mudukulathur and he is residing there at present.

5.Heard the learned counsel for the petitioner as well as the respondent. Perused the materials available on record. It is well settled law that whenever, the transfer application is filed in matrimonial dispute, 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.

6.In view of the above submission made on both sides and considering the facts and circumstances of the case, based on the above said rulings of Hon'ble Supreme Court and taking note of the fact that her aged parents cannot accompany her during Court proceedings this Court is inclined to withdraw the H.M.O.P.No. 53 of 2019 pending on the file of the Sub Judge, Mudukulathur, filed by the husband and transfer the same to the Family Court, Chennai. सत्यमेव जयते

7. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

smn

To

1.The Subordinate Court,
Mudukulathur.

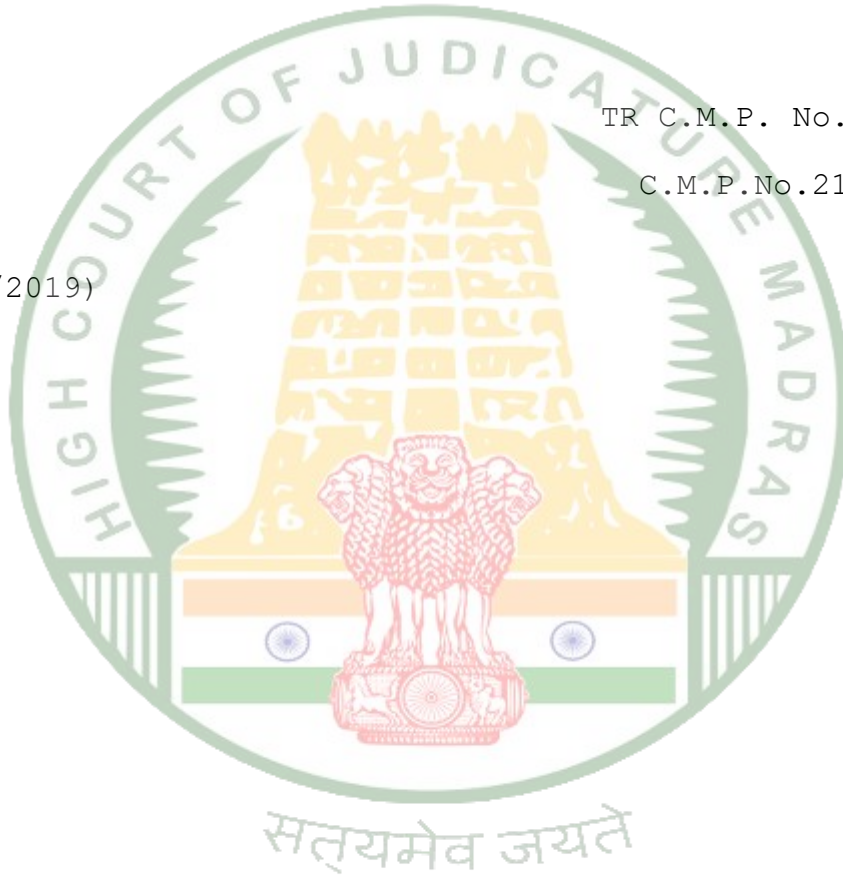
2.The Judge,
Family Court, Chennai.

+lcc to M/s.Geeta Ramaseshan, Advocate, SR.No.91862.

+lcc to Mr.S.Parthasarathy, Advocate, SR.No.91442.

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RSV (CO)
CSR(12/12/2019)



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