

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.12.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
Transfer C.M.P.No.994 of 2019

Mrs. Shanti

...Petitioner

vs.

Mr.A.Balraj

...Respondent

Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw the HMOP.No.84 of 2019 on the file of Family Court-V, Chennai and transfer the same to the file of Family Court, Puducherry.

For Petitioner : Mr.J. Zeakumar
For Respondent : Mr.R.Saravanakumar

ORDER

The petitioner has come forward with the above petition to withdraw the Original Petition in HMOP.No.84 of 2019 on the file of Family Court V at Chennai and transfer the same to the Family Court, Puducherry.

2. It is very unfortunate that the parties are trying to separate from each other, when the marriage took place 21 years ago. Allegations and counter allegations are made and this court does not want to deal with the same.

3. It is an admitted fact that the petitioner who was the respondent before the Family court was set exparte, which was recalled and the matter was restored on file and again she was set exparte. At this stage, the petitioner herein has sought for transfer of HMOP.No.84 of 2019 from the Family Court V at Chennai to the Family Court, Puducherry.

4. Having been set exparte and exparte evidence is going to be taken, the intention of the petitioner is not to participate in the proceedings in issue. When the petitioner has been set exparte, it is not correct on the part of this Court to transfer the matter unless and until the matter is restored and there are genuine reasons given for requesting such transfer.

5. In the present case on hand, the petitioner herein has already filed DVC.No.17 of 2016 before the Judicial Magistrate -1, Puducherry Court and obtained an exparte order dated 27.4.2017.

6. Learned counsel for the respondent would submit that he may not have any objection for the exparte order being recalled and that the matter may be tried afresh.

7. Learned counsel for the respondent would submit that if there is an exparte decision taken and exparte evidence has got to be let in, it is not correct to transfer the matter, more particularly when he was set exparte not once, but twice.

8. It is further submitted that it is true that he has suffered an adverse order in DVC.No.17 of 2016 and he is willing to comply with the same and that hand over all the belongings of the petitioner as per the order of the Court to the petitioner herein, in the presence of an Advocate who may be nominated by this Court.

9. Taking note of the submissions of both parties, I find that there is no genuine ground to transfer the matter from Family Court V at Chennai to the Family Court, Puducherry. Hence, the petition is rejected.

10. Since the respondent herein has voluntarily submitted that he is willing to hand over all the property belonging to the petitioner herein, this Court appoints Mr. S.Chandrasekhar, Advocate, No.3/102, E-Type, 28th Street, SIDCO Nagar, Villivakkam, Chennai (Mobile: 98409 65990) to receive the articles handed over by the respondent and on receipt of the same, the said Advocate should also submit a report before the Registrar General of this Court. The Advocate is directed to hand over the properties to Judicial Magistrate I, Puducherry within a period of one month from the date of receipt of a copy of this order. Consequently, connected CMP.No.26530 of 2019 is closed.

11. The petition is dismissed with the above direction. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msr

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To

The Family Court-V, Chennai.

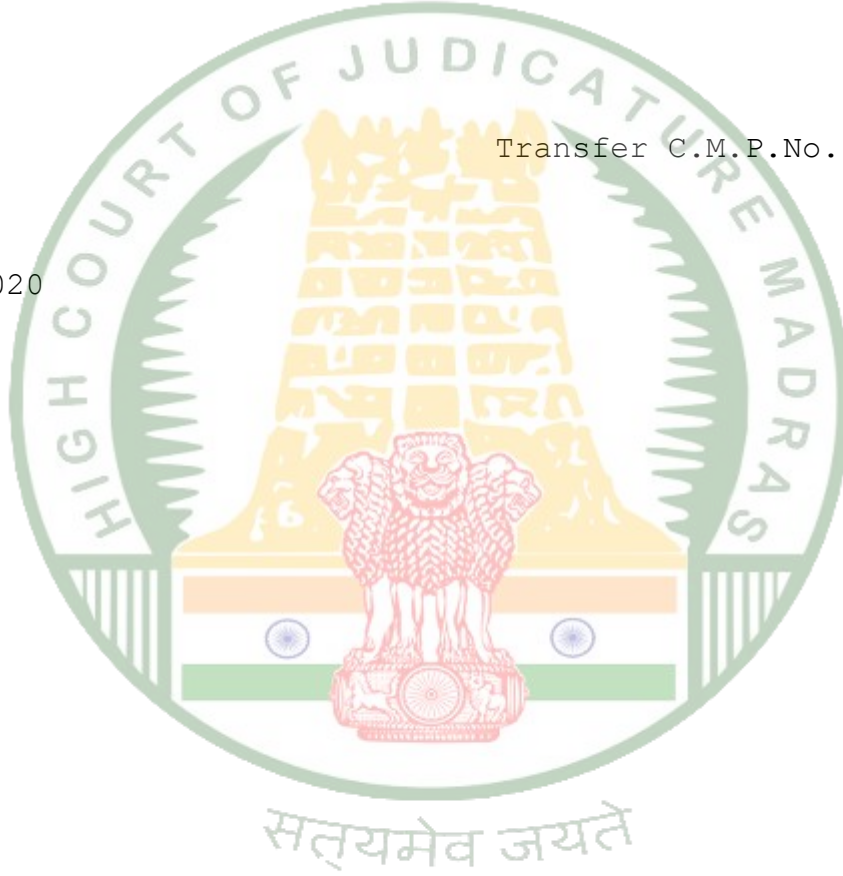
2.The Family Court, Puducherry

3.The Judicial Magistrate I Puducherry

4.Mr.S.Chandrasekar Advocate
No.3/102, E.Type 28th Street,
SIDCO Nagar, Villivakkam
Chennai (Mobile No.9840965990)

Transfer C.M.P.No.994 of 2019

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