

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

CORAM

THE HONOURABLE **MRS. JUSTICE BHAVANI SUBBAROYAN**

Tr.C.M.P.No.847 of 2018
and
C.M.P.No.20910 of 2018

M.Abirami

... Petitioner

Vs.

S.Vijayarajan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw HMOP. No.115 of 2018, on the file of the Family Court, Villupuram and transfer the same to the Family Court, Pondicherry.

For Petitioner : Mr.Karthik Raja K.S.

For Respondent : Mr.V.Vasantha kumar

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the petition in HMOP. No.115 of 2018, on the file of the Family Court, Villupuram and transfer the same to the Family Court, Pondicherry.

2. The Respondent and the petitioner are the husband and wife. The marriage between the parties was solemnized on 29.05.2017 at Raja Thirumana Mahal, Villiyanur, Pondicherry, as per Hindu Rites and Custom. After the marriage, the couples were lived in their matrimonial house. From the date of marriage, the respondent and his family members started to ill-treat the petitioner and also demanded dowry. In the lawful wedlock, a male child viz., Thaswin was born. During the pregnancy of the petitioner, the respondent sent the petitioner in her parental home. But he did not bring back the petitioner to the matrimonial home. Due to demand of dowry, the petitioner has lodged a complaint against the respondent and his family members before the All Women Police Station, Villiyanur on 01.10.2018. Thereafter, the respondent has filed a petition for restitution of conjugal rights before the Family court, Villupuram in HMOP. No.115 of 2018. The petitioner/wife is the resident of Puducherry. She finds it difficult to travel from Puducherry to Villupuram to attend the Court proceedings. Therefore, she seeks transfer of the petition filed by her husband, from Villupuram to Puducherry.

3. The learned counsel for the petitioner/wife would submit that now the petitioner is living at Puducherry along with her aged parents. A child, aged about 8 months, is under the care and custody of the

petitioner. It is very difficult for her to travel along with the infant from Pudhucherry to Villupuram. Therefore, it will be appropriate to transfer the case filed by her husband from Villupuram to Puducherry.

4. The learned counsel for the respondent/husband would submit that she left the matrimonial home on her own, without considering the welfare of the child. However, the respondent is ready and willing to re-join with the petitioner. Hence, he has filed a petition for restitution of conjugal rights. Therefore, the learned counsel prays to dismiss this petition.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6. The learned counsel for the respondent submitted that the respondent has filed a petition in HMOP. No.115 of 2018 before the Family Court, Villupuram and the same was allowed on 31.10.2019.

7. In view of the submissions made by both the parties and considering the welfare of the child, this Court is not inclined to transfer the petition because of the fact that the petition in HMOP. No.115 of 2018 was already allowed by an order dated 31.10.2019 and further, it is open to that both the parties to forget about the past and also the differences of opinion that arose between them. This is a chance of the wife to re-join with the husband as he is also willing to join with the petitioner along with a child and lead a happy life.

8. In view of the above said facts, thi Court is of the view that this Transfer Civil Miscellaneous Petition deserves to be dismissed and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.11.2019

Index : Yes/No

Internet: Yes/No

Speaking order/Non speaking order

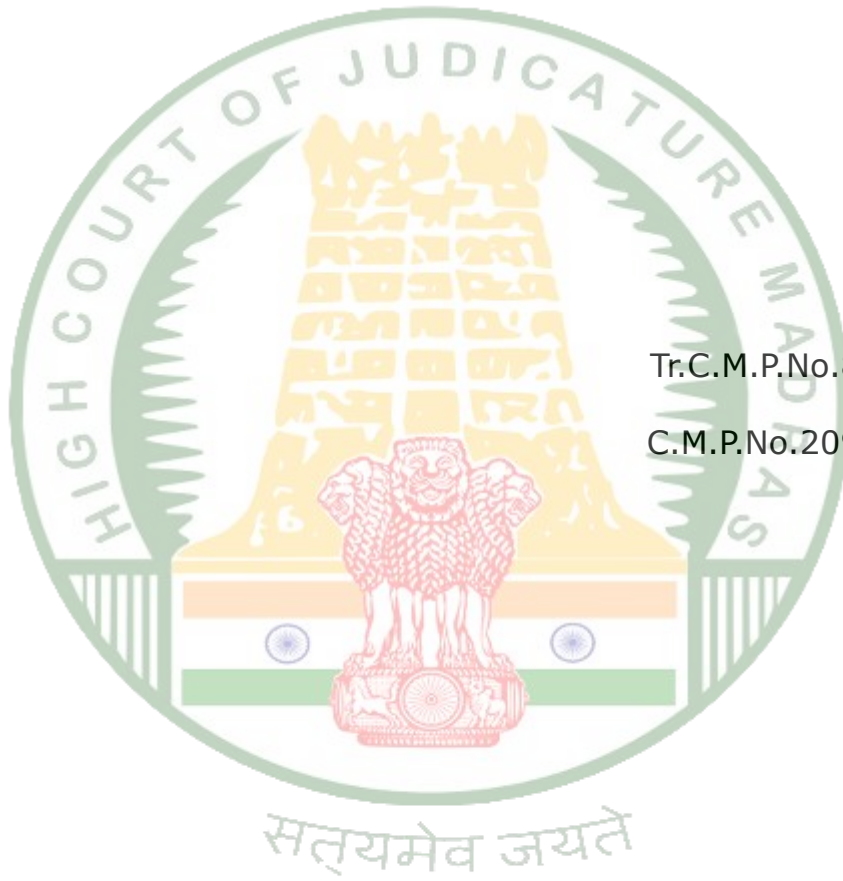
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To

- 1.The Family court, Villupuram.
2. Family Court, Pondicherry

V.BHAVANI SUBBAROYAN.,J.

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