

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.55 of 2020

M.V.Sangeetha

.. Petitioner

-vs-

N.Ramnath Shankar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the G.W.O.P.No.1197 of 2019 on the file of the Family Court, Madurai to the file of the VI Additional Family Court, Chennai to be tried along with O.P.No.4009 of 2019.

For Petitioner :: Mrs.B.S.Ajeetha

For Respondent :: Mr.V.Lakshminarayanan

ORDER

Heard learned counsel for the parties through video conferencing due to the Covid-19 pandemic.

2. Mrs.M.V.Sangeetha, the petitioner herein and wife of Mr.N.Ramnath Shankar, the respondent herein, has filed this transfer civil miscellaneous petition seeking an order to withdraw and transfer the G.W.O.P.No.1197 of 2019 from the file of the Family Court, Madurai to the file of the VI Additional Family Court, Chennai to be tried along with O.P.No.4009 of 2019 in accordance with law.

3. Mrs.B.S.Ajeetha, learned counsel appearing for the petitioner argued that after the marriage was solemnized on 19.8.2007 between the parties at Raja Muthiah Thirumana Mandapam, Madurai as per the Hindu rites and customs in the presence of the well wishers of both the families, two children, namely, R.Advaith and R.Ashvath were born on 27.10.2008 and 27.7.2011, aged about 11 years and 8 years now, who are also admittedly in the care and custody of the petitioner mother. The respondent is hailing from a rich family owning the famous Anjali Group of Companies producing gingely oil. The petitioner later on came to know that the respondent was in the habit of

heavy smoking and other vices. Therefore, the petitioner, as a dutiful wife, imposed certain restrictions after the marriage. But, in turn, the respondent inflicted several harassment and cruelties on the petitioner. Hence, the petitioner was constrained to file the O.P.No.4009 of 2019 before the VI Additional Family Court, Chennai seeking for divorce, as the petitioner and her two sons are staying with her parents at Velacherry. She has also filed M.C.No.541 of 2019 seeking maintenance for herself and her two sons under Section 125 Cr.P.C., which is also pending on the file of the VI Additional Family Court, Chennai, wherein the respondent also attended the counselling sessions on 18.12.2019 and 26.12.2019 and the cases were posted on 31.12.2019 and thereafter adjourned to further dates. In the meanwhile, the respondent has filed G.W.O.P.No.1197 of 2019 before the Family Court at Madurai on 5.11.2019. Subsequently, the petitioner and the respondent, subjecting themselves to the jurisdiction of the VI Additional Family Court, Chennai, moved a joint memo agreeing to spend time with their two sons, wherein the respondent was permitted to go to the house of the petitioner situated at Velacherry at 9.30 AM on 11.01.2020 to see his wife and sons and then, they were also permitted to go to a mall, based on which the order dated 31.12.2019 came to be passed. The order further directed that at 5.15 PM, the respondent shall come back to the house of the petitioner at Velacherry and drop his wife and two sons to be with the mother. Therefore, when the O.P.No.4009 of 2019 is pending and a consent order dated 31.12.2019 was passed by the VI Additional Family Court, Chennai that has been acted upon, it is not open to the respondent to raise any objection with regard to the jurisdiction of the VI Additional Family Court at Chennai now. Literally speaking, she argued that after obtaining the order consensually and acting thereupon, it is not open to the respondent to argue that the VI Additional Family Court, Chennai had no jurisdiction or authority to proceed with the matter. On this basis, she argued for allowing the petition as prayed for.

4. Mr.V.Lakshminarayanan, learned counsel appearing for the respondent, on the other hand, submitted that originally the two children were studying in TVS Lakshmi School at Madurai and were also under the care and custody of their father till 2016 and thereafter, due to the Covid-19 pandemic, while moving to Velacherry, the petitioner brought the children to Chennai behind the back of the respondent. Therefore, the District Court at Madurai alone has got the jurisdiction to try the G.W.O.P.No.1197 of 2019. The learned counsel also pleaded that the petitioner also has averred in paragraph-7 of the petition that she is presently working as Deputy Manager (Operations) at SRM Hospital, Kattangulathur, while the respondent is doing his own business as the Director of Natarajan Oil Mills Private Ltd., Madurai.

5. It is at this juncture, Mrs.Ajeetha, learned counsel appearing for the petitioner stated that previously the petitioner was working as Deputy Manager (Operations) at the SRM Hospital, Kattankulathur. But four months ago, she left that job and is presently working as administrative staff in MGM Hospital, Aminjikarai, Chennai. Therefore, the attempt made by the learned counsel for the respondent that the District Court at Chenglepet will have jurisdiction, cannot be espoused.

6. But this Court, after hearing learned counsel for the parties at length, could see the passing of the consensual interim order dated 31.12.2019 in O.P.No.4009 of 2019, which reads as follows:-

"Both parties submitted a joint memo. They both agree to spend time with their two male children on 11.01.2020 between 10 a.m to 5 p.m in any Mall. The respondent is permitted to go to the house of his wife situated at Velacherry at 9.30 a.m to see his wife and children and then they are permitted to go to the Mall. At 5.15 p.m the respondent shall go to the house of his wife at Velacherry to drop the wife and children. This order is no way connected with I.A.No.02 of 2019 in O.P.No.4009 of 2019."

7. A perusal of the above order clearly shows that the petitioner and the respondent have consented to be with their sons on the given date and acted upon the said order. Secondly, the petitioner is also staying at Velacherry with her parents. Thirdly, the petitioner is also taking care of her two sons, who are studying in Narayanan School at Madipakkam. Fourthly, she is also working as an administrative staff in MGM Hospital, Aminjikarai. For all these reasons, this Court, finding the balance of convenience in favour of the petitioner, is inclined to allow the prayer of the petitioner. Accordingly, the transfer civil miscellaneous petition stands allowed and the G.W.O.P.No.1197 of 2019 is withdrawn from the file of the Family Court at Madurai and transferred to the file of the VI Additional Family Court at Chennai for an expeditious disposal, along with O.P.No.4009 of 2019, in accordance with law. Consequently, C.M.P.No.1672 of 2020 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ss

To

1.The Family Court Judge
Madurai

2.The VI Additional Family Court Judge
Chennai

Copy to :

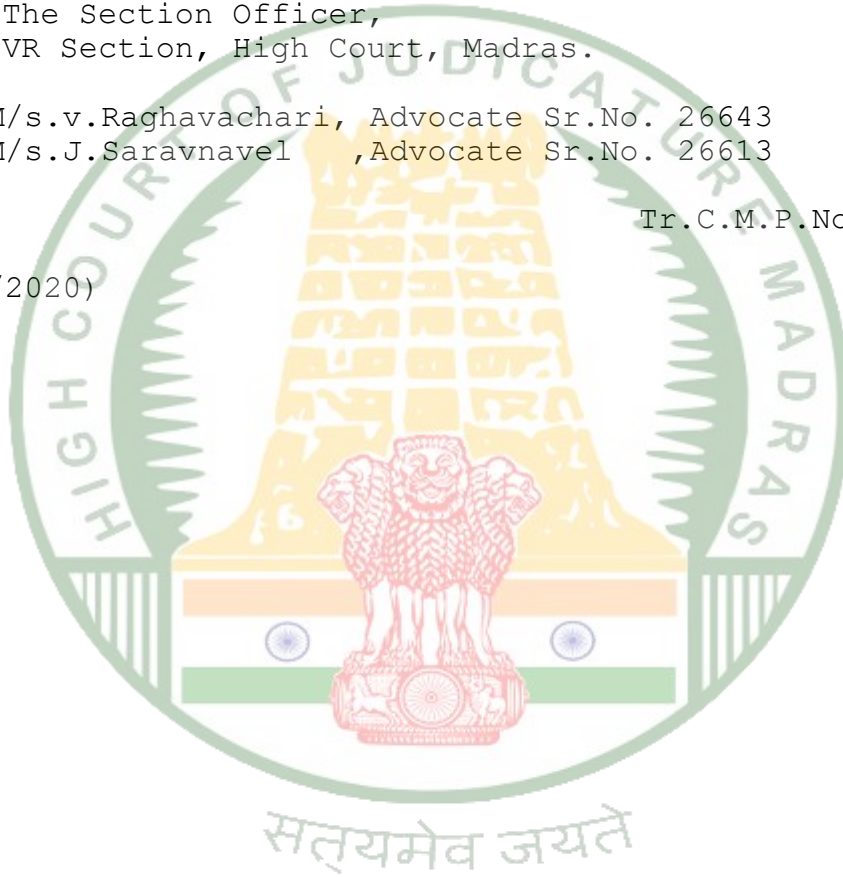
The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.v.Raghavachari, Advocate Sr.No. 26643

+1 cc to M/s.J.Saravnavel ,Advocate Sr.No. 26613

Tr.C.M.P.No.55 of 2020

RMP (03/09/2020)



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