

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.07.2020
CORAM
THE HONOURABLE MR.JUSTICE T.RAJA
Tr.C.M.P.No.160 of 2020

Gowshalya Devi

.. Petitioner

Versus

M.Munishankar

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.5035 of 2019 pending on the file of learned V Additional Family Court, Chennai, and to transfer the same to the file of learned Principal Sub-Court, Dindugal, to be tried along with H.M.O.P.No.121 of 2019, pending on the file of learned Principal Sub-Court, Dindugal.

For Petitioner : Mr.Mohan Prasad
for M/s.Viruksham Legal

For Respondent : No Appearance

O R D E R

Heard the parties through Video Conferencing due to COVID-19 pandemic.

2. Mrs.Gowshalya Devi/petitioner herein, who is the wife of Mr.M.Munishankar/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.5035 of 2019 from the file of learned V Additional Family Court, Chennai, to the file of learned Principal Sub-Court, Dindugal, to try along with H.M.O.P.No.121 of 2019 filed by the wife seeking to declare the marriage held on 16.05.2019 as null and void. The above said H.M.O.P.No.5035 of 2019 was filed by the respondent/husband seeking for restitution of conjugal rights.

3. Learned counsel appearing for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 16.05.2019 as per the Hindu Rites and Customs in the presence of well-wishers of both family. Although, at the time of marriage, it was informed by the respondent/husband that he is working in a IT Company, but, only after the marriage, she came to know that he was not in job

even before the marriage. Therefore, since he has lied about his job, the petitioner/wife, finding that he is jobless, has filed H.M.O.P.No.121 of 2019 on the file of learned Principal Sub-Court, Dindugal, seeking annulment of marriage held on 16.05.2019 between them. Thereafter, only as a counter blast, the respondent/husband has filed H.M.O.P.No.5035 of 2019 on the file of learned V Additional Family Court, Chennai, seeking for restitution of conjugal rights. It is further submitted that the petitioner/wife, aged about 25 years, is residing at Dindugal with her parents and therefore, it is difficult for her to undertake a long journey from Dindugal to Chennai, which is more than 400 kms., to attend each and every hearing, that too, at this trying time due to COVID-19 pandemic. On this basis, learned counsel prayed for transferring the case filed by the husband to the file of learned Principal Sub-Court, Dindugal, to try along with the case filed by the wife in H.M.O.P.No.121 of 2019 for joint trial.

4. Although Court notice is served on the respondent/husband, no one represented the case on behalf of him and therefore, non-appearance of the husband shows that he has no objection in transferring the case to the file of learned Principal Sub-Court, Dindugal. Secondly, the distance between Dindugal and Chennai is more than 400 kms. and therefore, it will be difficult for her to undertake long journey thus far, that too, at this trying time due to COVID-19 pandemic. Thirdly, the petitioner/wife has already filed H.M.O.P.No.121 of 2019 seeking for annulment of marriage and the same is pending before the learned Principal Sub-Court, Dindugal. Therefore, accepting the balance of convenience in favour of the petitioner/wife, H.M.O.P.No.5035 of 2019 filed by the husband is withdrawn from the file of learned V Additional Family Court, Chennai, consequently, transferred to the file of learned Principal Sub-Court, Dindugal, to try along with H.M.O.P.No.121 of 2019 filed by the wife, for joint trial. On such transfer, learned Principal Sub-Court, Dindugal, shall dispose of both the cases together in the manner known to law as expeditiously as possible. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.5312 of 2020 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rkm

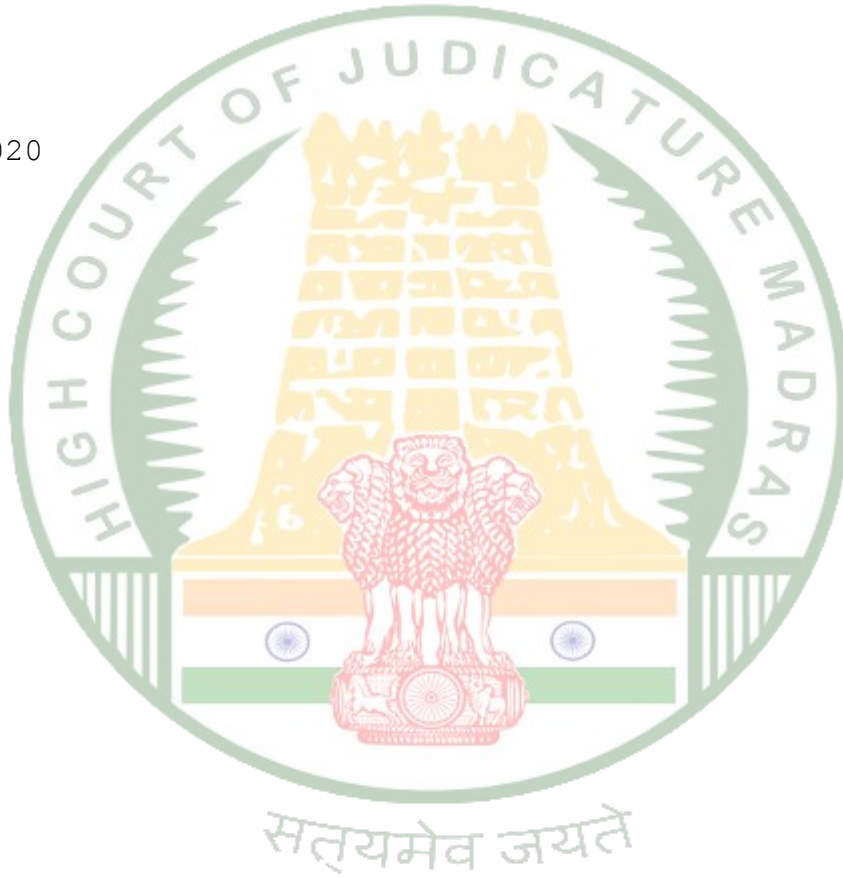
To

1. V Additional Family Court, Chennai.

2. Principal Sub-Court, Dindugal.

Tr.C.M.P.No.160 of 2020

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