

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.104 of 2020
and C.M.P. No.3593 of 2020

R.Poochendu

...Petitioner/Respondent

-vs-

1. M.D.Venkatachalam
2. Sekar

...Respondents/
Petitioners/Respondents

Prayer: Petition filed under Section 24 of C.P.C to withdraw the FCOP.No.410 of 2019 on the file of the Family Court, Erode District and transfer the same to the Subordinate Court, Kumbakonam, Thanjavur District.

For Petitioner : Ms.S.Anbuja

For Respondents : No appearance

O R D E R

The Transfer C.M.P. has been filed seeking to withdraw the FCOP.No.410 of 2019 on the file of the Family Court, Erode District and transfer the same to the Subordinate Court, Kumbakonam, Thanjavur District.

2. Learned Counsel appearing for the petitioner-wife submitted that the marriage between the petitioner and the 1st respondent was solemnized on 11.09.2008 at Kumbakonam Madurai Meenakshi Sundareswarar Thirumana Mandapam, Kumbakonam, Thanjavur District as per Hindu rites and customs and they were blessed with a female child by name Rathi Pratha on 18.12.2009. Being a house wife, the petitioner was living in the matrimonial house fulfilling all the obligations as a dutiful wife. The 1st respondent husband is employed in Southern Railway as a Senior Guard and used to visit the matrimonial home once in a week and quarrel with the petitioner stating that he was having illegal relationship with another lady. Subsequently, the petitioner

was beaten up in front of their child and abused her with all filthy language and also doubted her fidelity with the 2nd respondent who is noway connected. Therefore, they were separated. Finally, since no care was shown against the petitioner and her daughter, she has filed M.C.No.75 of 2015 before the learned Chief Judicial Magistrate, Kumbakonam, who passed an order on 31.01.2017 directing the 1st respondent to pay maintenance of Rs.5,000/- each to his wife and daughter. Even after the said order, the 1st respondent has not even complied with the same. Therefore, the petitioner has filed Execution Petition in Crl.M.P.No.602 of 2017 in M.C.No.75 of 2015 to pay the arrears of maintenance to her and her child and the same was also ordered in favour of the petitioner. But the 1st respondent has not come forward to pay the arrears of maintenance amount. Again, the petitioner filed Execution Petition in Crl.M.P.No.142/2019 in M.C.No.75/2015. Though the same was also ordered, till today, the 1st respondent has not paid the arrears of maintenance and the same is still pending. Contrary, the 1st respondent has filed FCOP.No.410/2019 before the Family Court, Erode seeking a decree for divorce. That petition was filed after filing of the M.C.No.75/2015 by the petitioner before the learned Chief Judicial Magistrate, Kumbakonam, which is pending even now. Further the petitioner finds it difficult to travel from Kumbakonam to Erode along with her female child. Hence, the present Transfer CMP. has been filed.

3. Though notice was served on the 1st respondent, he has not shown any interest to appear before this Court. So far as the 2nd respondent is concerned, he was given up as he is an unnecessary party to this petition.

4. Considering the fact that after taking notice, the 1st respondent has not even shown any interest to appear before this Court in person or through his counsel that shows that he has no objection for allowing the present Transfer Civil Miscellaneous Petition. Secondly, it appears that the petitioner wife has initially filed M.C.No.75/2015 before the learned Chief Judicial Magistrate, Kumbakonam seeking maintenance towards her and her female child. Though the same was ordered, the 1st respondent has not complied with the said order and even the order passed in the Execution Petitions filed by the petitioner were also not complied with and the same is pending still now. Thirdly, the 1st respondent has filed FCOP.No.410/2019 before the Family Court, Erode seeking a decree for divorce after filing of the MC.No.75/2015 by the petitioner. Therefore, it would be very difficult for the petitioner to travel from Kumbakonam to Erode which is more than 300 kms. along with her daughter.

5. In view of all the above, the Transfer CMP is allowed. Accordingly, the FCOP.No.410 of 2019 on the file of the Family

Court, Erode District is withdrawn and the same is transferred to the Subordinate Court, Kumbakonam, Thanjavur District. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

To

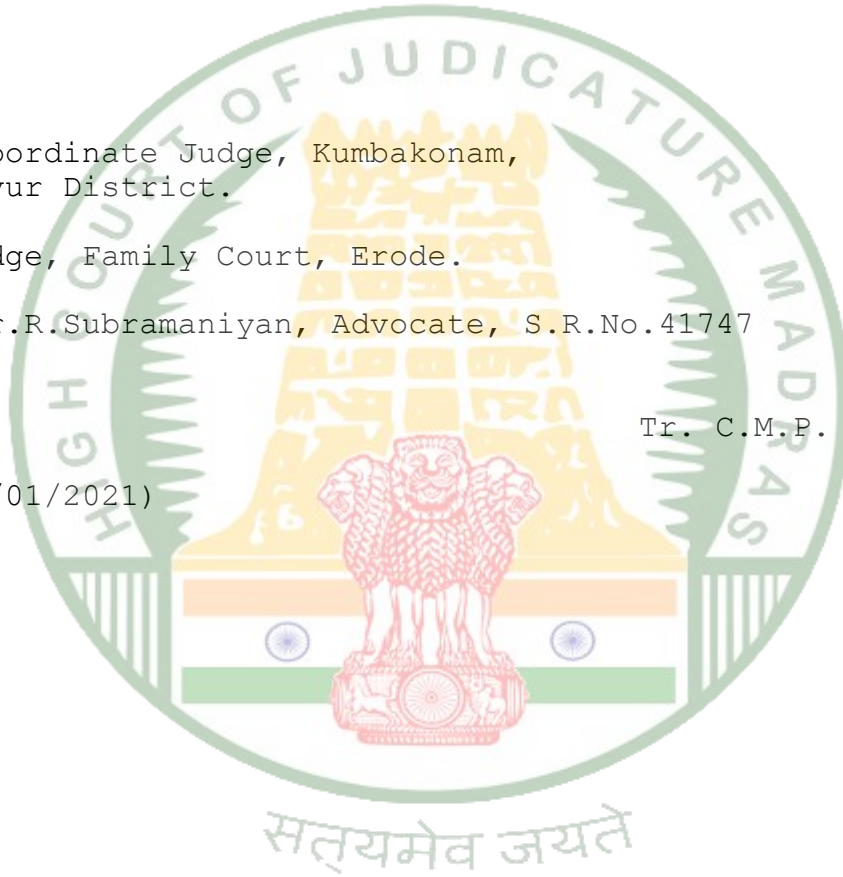
1. The Subordinate Judge, Kumbakonam,
Thanjavur District.

2. The Judge, Family Court, Erode.

+1cc to Mr.R.Subramaniyan, Advocate, S.R.No.41747

Tr. C.M.P. No.104/2020

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