

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.136 of 2020

H.Indira

..Petitioner

-vs-

G.Venkatesan

..Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the O.P.No.3849 of 2019 on the file of the IV Additional Family Court, Chennai and transfer the same to the Sub Court, Ranipet, Vellore District.

For Petitioner :: Mr.S.Sathia Chandran

For Respondent :: No appearance

ORDER

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

2. The petitioner, Mrs.H.Indira, Wife of Mr.G.Venkatesan, the respondent herein has come to this Court seeking an order to withdraw the O.P.No.3849 of 2019 from the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Ranipet, Vellore District for common trial along with H.M.O.P.No.152 of 2019 filed by the petitioner for restitution of conjugal rights under Section 9 of the Hindu Marriage Act.

3. Mr.S.Sathia Chandran, learned counsel appearing for the petitioner submitted that after the marriage was solemnized on 21.8.2016, as per the Hindu rites and customs at Sri Krishna Mahal, Guduvancherry, both the petitioner and the respondent were living together. The respondent is a government servant working as Record Clerk in the Government Aided Vaishnav College for Women, Chrompet, Chennai. After sometime, as the respondent did not show any positive response to run the family, she was forced to leave the matrimonial home in the year 2019. However,

she approached the Sub Court, Ranipet with H.M.O.P.No.152 of 2019 seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act and the same is pending. In the meanwhile, the respondent has filed O.P.No.3849 of 2019 before the IV Additional Family Court, Chennai. Since the petitioner was unable to engage a counsel at Chennai to handle the case, even on the first hearing on 25.11.2019, when the petitioner visited Chennai from Ranipet to attend the hearing in O.P.No.3849 of 2019 before the IV Additional Family Court, Chennai, she was informed that her case was already called out and proceeded ex parte. Therefore, she filed an interlocutory application in O.P.No.3849 of 2019 to set aside the ex parte order, that was allowed and the O.P.No.3849 of 2019 was restored back to file and the matter has been adjourned for filing counter affidavit. As the distance between Ranipet and Chennai is quite far off, it is not advisable for the petitioner to come to Chennai, which is in the hot spot of Covid-19. Instead, it would be ideal and convenient for both the parties to contest the case before the Sub Court, Ranipet where the H.M.O.P.No.152 of 2019 is pending, so that both the parties can sort out their matrimonial dispute.

4. I also agree with the submissions made by the learned counsel for the petitioner. Considering the fact that the petition filed by the petitioner for restitution of conjugal rights under Section 9 of the Hindu Marriage Act is pending before the Sub Court, Ranipet coupled with the fact that the corona virus pandemic in Chennai is also spiking every day, it may not be proper for both parties to contest the case at Chennai. Therefore, considering the balance of convenience in favour of the petitioner that her petition for restitution of conjugal rights is also pending, the O.P.No.3849 of 2019 is withdrawn from the file of the IV Additional Family Court, Chennai and transferred to the Sub Court, Ranipet, Vellore District for disposal on merits expeditiously, along with H.M.O.P.No.152 of 2019. The transfer civil miscellaneous petition stands allowed. Consequently, C.M.P.No.4599 of 2020 is closed.

Sd/-

Assistant Registrar(CS III)MDU

//True Copy//

Sub Assistant Registrar

SS

To

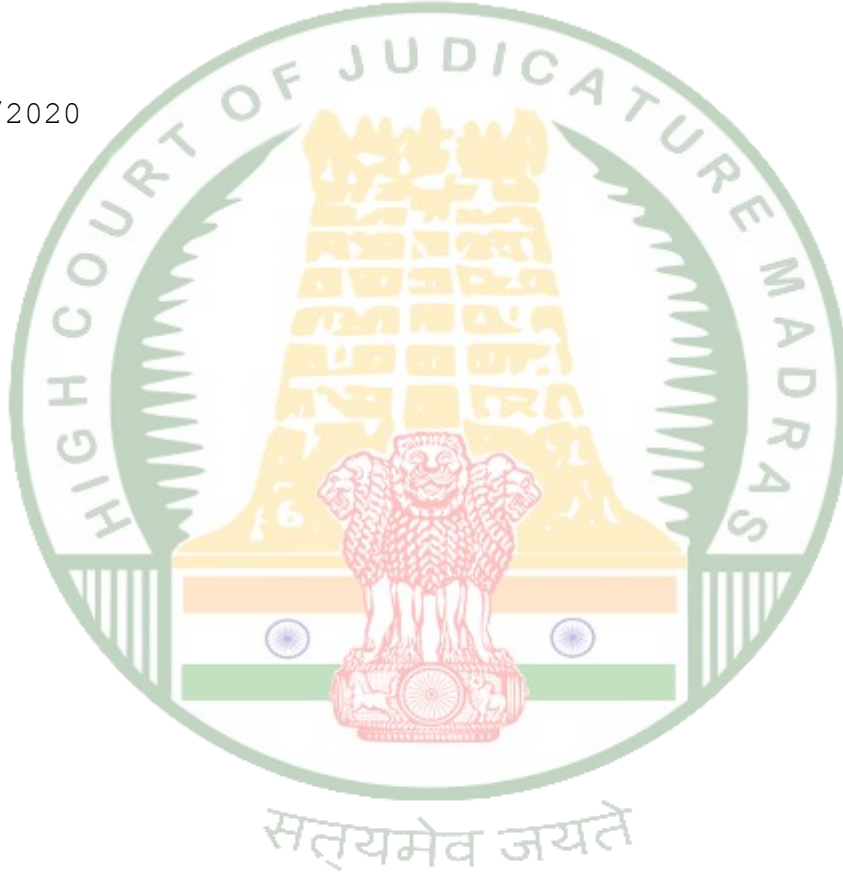
1. The IV Additional Family Court Judge
Chennai

2. The Subordinate Judge
Ranipet, Vellore District

+1cc to Mr.S.Sathia Chandran, Advocate, S.R.No.25029

Tr.C.M.P.No.136 of 2020

SS (CO)
KKV/19/08/2020



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