

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.139 of 2020

A.Hemarani

.. Petitioner

Versus

1.D.Senthil Kumar

2.Badri Balaji

... Respondents

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw F.C.O.P.No.43 of 2020 pending on the file of learned Family Court, Erode, and to transfer the same to the file of learned Family Court, Salem.

For Petitioner : Mr.V.Sekar

For R1 : Mr.K.Eswararao

O R D E R

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

2. Mrs.A.Hemarani/petitioner herein, wife of Mr.D.Senthilkumar/first respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer F.C.O.P.No.43 of 2020 from the file of learned Family Court, Erode, to the file of learned Family Court, Salem. The above said FCOP was filed by the first respondent/husband seeking for divorce.

3. Learned counsel appearing for the petitioner/wife submitted that the marriage between the petitioner and the first respondent was solemnized on 02.09.2009 at Sengunthar Thirumana Mandapam, Erode, as per Hindu Rites and Customs, in the presence of well-wishers of both family. Out of the said wedlock, they were blessed with two children. At the time of marriage, the first respondent/husband was serving in Indian Army and he was posted at Kasa-Waghe Border, but, he set up his family at Erode, and that petitioner/wife was working as Teacher in Sidhartha Matriculation School, Erode. After the marriage, the husband was relieved from Military Service on 31.03.2019 and it is stated that he is now working as Security in Erode. It is the allegation of the first respondent/husband that on 19.11.2019 at

about 11.45 p.m., when the husband came to his house, he witnessed that his wife was sharing bed with one Badri Balaji/second respondent herein. Subsequently, the petitioner/wife left the matrimonial home along with her two children. Finally, the first respondent/husband has filed F.C.O.P.No.43 of 2020 on the file of learned Family Court, Erode, seeking for divorce on the ground of cruelty, adultery and desertion. It is further submitted that the petitioner/wife is now residing with her parents along with her two school going children at Mallur, which is more than 70 kms., and therefore, the case filed by the husband may be transferred to the file of learned Family Court, Salem, which is just 15 kms., away from Mallur, where the wife resides.

4. Learned counsel appearing for the first respondent/husband submitted that after relieving from Military service on 31.03.2019, he settled in his native place at Erode and he is presently working as Security. On 19.11.2019, he found illegal intimacy of his wife with second respondent and therefore, he filed the above said FCOP before the learned Family Court, Erode, seeking for divorce. Since he is now working as Security, it is difficult for him to often request for leave to attend the hearing at Salem, hence, the matter need not be transferred to the file of learned Family Court, Salem.

5. This Court is unable to accept the above said submission. Firstly, the petitioner/wife is presently living with her parents at Mallur, Salem District, along with her two school going children. Secondly, the distance between Mallur and Erode is more than 70 kms., whereas the distance between Mallur and Salem is only 15 kms. and therefore, it will be difficult for the petitioner/wife to undertake such a long journey to Erode to attend each and every along with her two school going children. Thus, considering the balance of convenience in favour of wife, F.C.O.P.No.43 of 2020 filed by the husband is withdrawn from the file of learned Family Court, Erode, consequently, transferred to the file of learned Family Court, Salem. On such transfer, learned Family Court, Salem, shall dispose of the same 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.4618 of 2020 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge, Family Court, Erode.
2. The Judge Family Court, Salem.

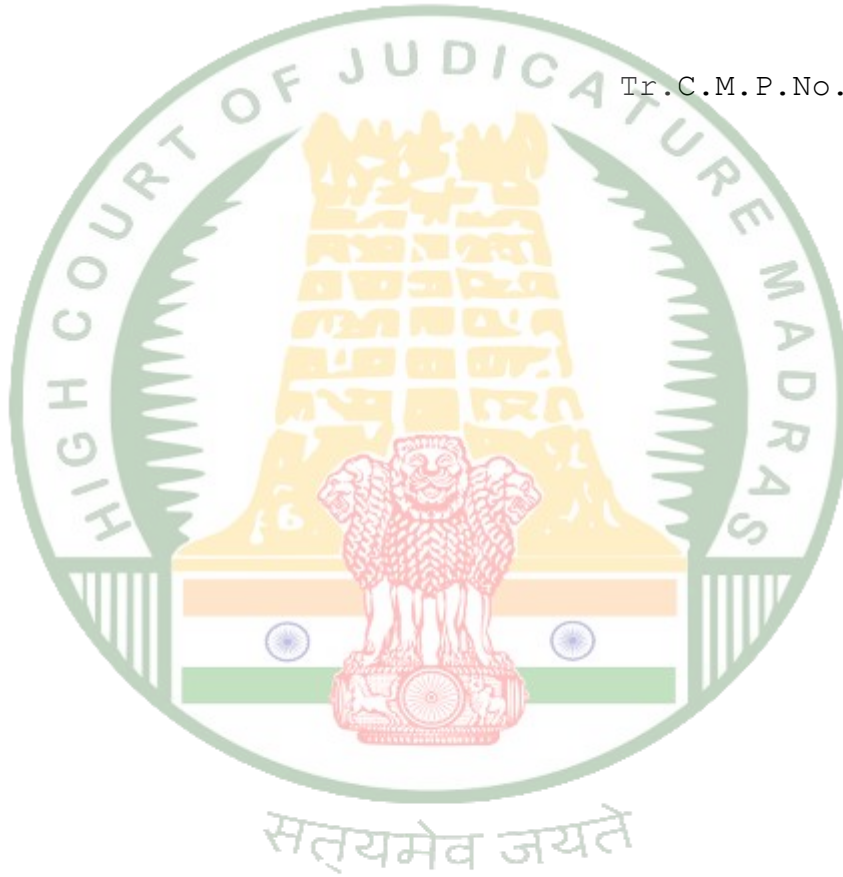
Copy to

The Section Officer,
VR Section, High Court Madras.

+1 cc to M/s.M.Sekar, Advocate, Sr.No. 26666

RMP (CO)

Tr.C.M.P.No.139 of 2020



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