

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.202 of 2020

Mrs.M.Malarkodi

..Petitioner/Respondent

-vs-

Mr.A.Arun

..Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.75 of 2019, pending on the file of the Hon'ble Judge, Family Court at Tiruvallur and transfer the same to the Hon'ble VII Additional Judge, Family Court at Chennai to be tried along with H.M.O.P.No.2244 of 2019.

For Petitioner :: Mr.J.Srinivasan  
For Respondent :: No appearance

ORDER

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

2. The petitioner, Mrs.M.Malarkodi, Wife of Mr.A.Arun, the respondent herein has filed this transfer civil miscellaneous petition seeking an order to withdraw the H.M.O.P.No.75 of 2019 from the file of the Family Court, Tiruvallur and transfer the same to the file of the VII Additional Family Court, Chennai, to be tried along with H.M.O.P.No.2244 of 2019 filed by her for restitution of conjugal rights.

3. It is the case of the petitioner that after the marriage was solemnized between the parties on 27.10.2017 at Perunthalaivar Kamarajar Thirumana Maaligai, No.2/486, Tiruvallur Road, M.A.Nagar, Red Hills, Chennai, they were living together in the matrimonial home at No.17, Padmavathi Nagar, Sethupakkam Salai, Ammanambakkam, Tamaraipakkam, Tiruvallur as a joint family. But, however, on the issue of giving birth to a child through test tube, the petitioner, who is aged about 24 years and the respondent is aged about 25 years, was not interested to undergo treatment at this point of time. Therefore, misunderstanding arose between them and out of such

misunderstanding, the respondent has filed the H.M.O.P.No.75 of 2019 before the Family Court, Tiruvallur seeking an order of divorce. The petitioner sent a legal notice on 19.4.2019 calling for the respondent to take back the petitioner to the matrimonial home. Finding no response, she also filed the H.M.O.P.No.2244 of 2019 before the VII Additional Family Court, Chennai under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights and since both the matters are to be tried together, she has come to this Court.

4. Admittedly, when the petitions filed by the parties, namely, H.M.O.P.No.2244 of 2019 filed by the petitioner/wife and the H.M.O.P.No.75 of 2019 filed by the respondent/husband seeking divorce are pending before two different Courts i.e., VII Additional Family Court, Chennai and the Family Court, Tiruvallur respectively, this would not only give rise to multiplicity of proceedings wasting the precious time of the Courts, but also cause prejudice to both parties. Moreover, during this Covid-19 pandemic situation, it will be difficult for the petitioner to appear before two different Courts, as she may be exposed to the Corona virus. Therefore, taking note of the fact that the petitioner and the respondent have filed the petitions, namely, H.M.O.P.No.2244 of 2019 filed by the wife under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights before the VII Additional Family Court, Chennai and the H.M.O.P.No.75 of 2019 filed by the husband under Section 13(1)(ia) of the Hindu Marriage Act seeking divorce before the Family Court, Tiruvallur, this Court is of the view that the H.M.O.P.No.75 of 2019 filed by the husband shall be transferred to the VII Additional Family Court, Chennai for a joint trial, to avoid the multiplicity of proceedings. Hence, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.75 of 2019 is withdrawn from the file of the Family Court, Tiruvallur and transferred to the VII Additional Family Court, Chennai and on receipt of the case bundle so transferred, the learned VII Additional Family Court Judge, Chennai is directed to take up both the matters together for trial and dispose of the same on their own merit expeditiously. Consequently, C.M.P.No.6184 of 2020 is closed.

Sd/-

Assistant Registrar

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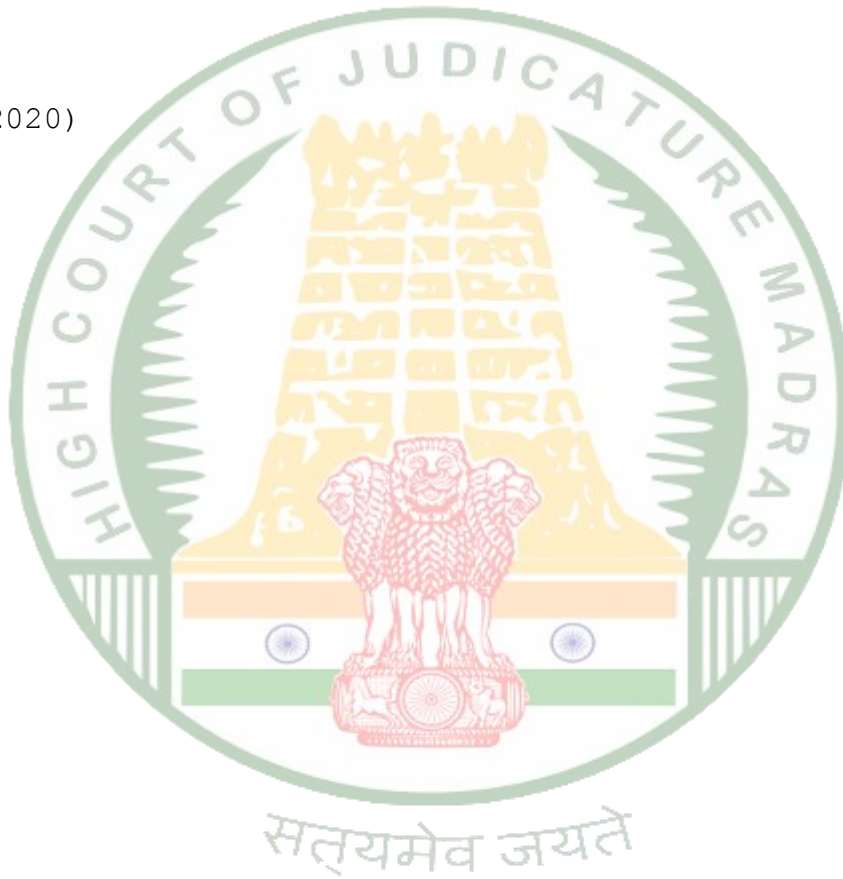
Sub Assistant Registrar

To

1. The Family Court Judge  
Tiruvallur
2. The VII Additional Family Court Judge  
Chennai

Tr.C.M.P.No.202 of 2020

CP(CO)  
RV(16/10/2020)



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