

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.157 of 2020

A.N.Ramanarayanan

..Petitioner/Respondent

-VS-

R.Abinaya

..Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the M.C.No.45 of 2020 on the file of the Hon'ble IV Additional Family Court at Chennai and consequently transfer the same to the file of the Hon'ble Subordinate Court at Tambaram.

For Petitioner : Mr.R.Lakshmi Narasimhan

For Respondent : Mr.D.Chandrakanth

ORDER

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

2. This transfer civil miscellaneous petition has been filed by Mr.A.N.Ramanarayanan seeking an order for withdrawal of the M.C.No.45 of 2020 from the file of the IV Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Tambaram, wherein two other petitions, namely, H.M.O.P.No.755 of 2017 filed by the petitioner/husband seeking dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955 and the H.M.O.P.No.218 of 2018 filed by the respondent/wife seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act, are pending.

3. Learned counsel appearing for the petitioner submitted that when the petitioner has filed the H.M.O.P.No.755 of 2017 under Section 13(1)(ia) of the Hindu Marriage Act seeking dissolution of marriage before the Sub Court, Tambaram, the respondent/wife has also filed the H.M.O.P.No.218 of 2018 seeking restitution of conjugal rights under Section 9 of the

Hindu Marriage Act before the same Sub Court, Tambaram. But without disclosing the pendency of the aforesaid two petitions, the respondent has wrongly filed the M.C.No.45 of 2020 on the file of the IV Additional Family Court, Chennai. Learned counsel appearing for the petitioner also stated that a perusal of the averments made in M.C.No.45 of 2020 also would clearly show that the respondent/wife has not mentioned deliberately the pendency of these two matters, because, if she has mentioned the pendency of these matters in the maintenance case filed before the IV Additional Family Court, Chennai, the Court would not have entertained the case and would have rejected the case at the beginning of the proceedings. Since the respondent has suppressed the pendency of these two matters, without wasting the valuable time of either Court, the maintenance case in M.C.No.45 of 2020 may be also transferred to the Sub Court, Tambaram for a common trial.

4. Learned counsel appearing for the respondent submitted that when the respondent has been residing in one of the ladies hostels in Anna Nagar and preparing for the competitive examination, she is taking earnest steps to file a petition seeking transfer of the aforesaid two matters from the file of the Sub Court, Tambaram to the file of the IV Additional Family Court, Chennai.

5. Be that as it may. Admittedly, the respondent has failed to mention the pendency of the H.M.O.P.No.755 of 2017 filed by her husband before the Sub Court, Tambaram seeking for dissolution of marriage and also the pendency of her own petition in H.M.O.P.No.218 of 2018 seeking restitution of conjugal rights before the same Sub Court at Tambaram. Therefore, considering the convenience of both parties, instead of contesting the respective cases before two Courts, this Court hereby withdraws the M.C.No.45 of 2020 from the file of the IV Additional Family Court, Chennai and transfers the same to the file of the Sub Court, Tambaram for disposal along with the H.M.O.P.Nos.755 of 2017 & 218 of 2018 filed by the parties for dissolution of marriage and for restitution of conjugal rights respectively, on merits and in accordance with law. The transfer civil miscellaneous petition stands allowed. Consequently, C.M.P.No.5268 of 2020 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The IV Additional Family Court Judge
Chennai.

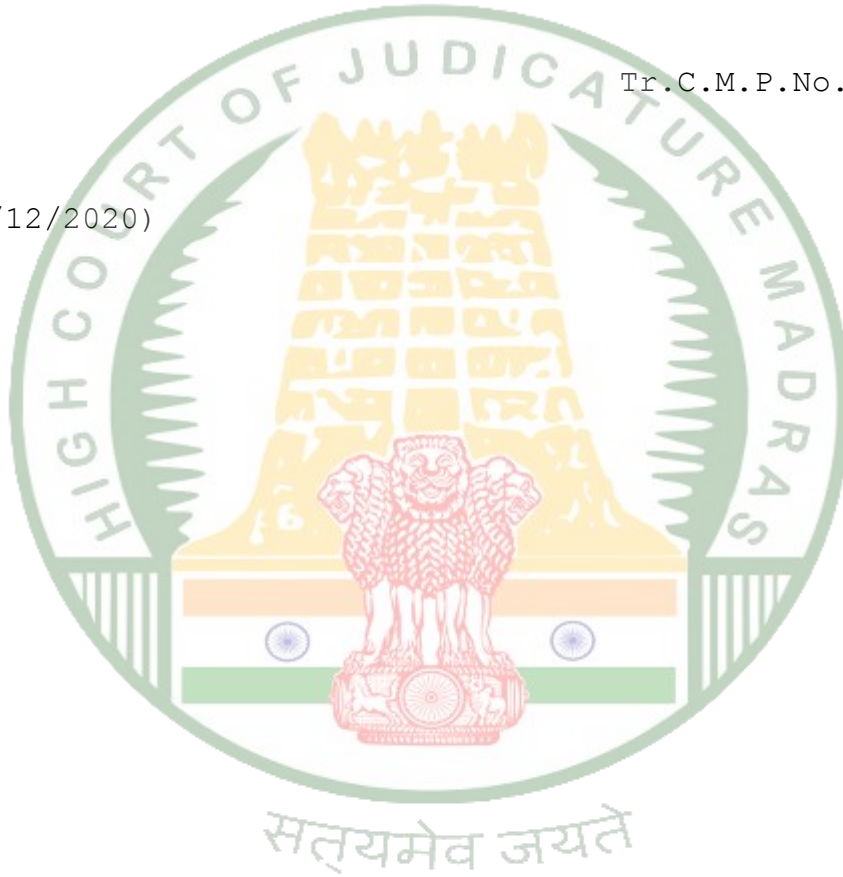
2. The Subordinate Judge
Tambaram.

+lcc to Mr.R.Lakshmi Narasimhan, Advocate, Sr.No.356665

+lcc to Mr.D.Chandrakanth, Advocate, Sr.No.35660

Tr.C.M.P.No.157 of 2020

ad (co)
rr ii (02/12/2020)



WEB COPY