

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.209 of 2020 and
CMP.No.6337/2020

Priya Saraswathy .. Petitioner/Respondent

-VS-

Annamalai ... Respondent/Petitioner

Prayer : Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the Divorce Petition filed by the respondent in HMOP.No.1074/2019 on the file of the Family Court, Madurai to Sub-Court, Sivagangai or Family Court, Trichy or to any other court.

For Petitioner :: Mr.G.Saravanakumar

For Respondent :: Mr.V.R.Shanmuganathan
for Mr.R.Chandramohan

ORDER

The matter was taken up through video conferencing due to the Covid-19 pandemic.

2. This Transfer Civil Miscellaneous Petition has been filed by the petitioner-wife, once again to withdraw the pending HMOP.No.1074/2019 from the Family Court, Madurai and to transfer the same to the Sub-Court, Sivagangai or Family Court at Trichy or any other Court.

3. Heard both sides.

4. At the outset, it is pertinent to note that when the same petitioner herein came to this Court with the Tr.CMP.No.82/2019 seeking transfer of the Divorce O.P. filed by the respondent husband from Chennai Family Court to Sub-Court, Devakottai where the restitution of conjugal rights filed by the petitioner was pending, this Court by order dated 26.7.2019 transferred the same to the Family Court, Madurai and also transferred the petition seeking restitution of conjugal rights from the Sub-Court, Devakottai to the Family Court, Madurai on the ground that it would be highly difficult for the petitioner who is serving in Singapore to come all the

way to the Sub-Court, Devakottai and similarly, even for the respondent husband who is employed in Bangalore to come all the way from Bangalore to Sub-Court Devakottai. This Court considered the convenience of both the parties to reach Madurai by Air, transferred the case from the Sub-Court, Devakottai to the Family Court, Madurai. While so, once again, the petitioner has moved another Tr.CMP.(MD) No.99/2020 seeking an order to withdraw and transfer the HMOP.No.1074/2019 seeking divorce filed by the respondent and HMOP.No.1374/2019 filed by the petitioner seeking restitution of conjugal rights from the Family Court, Madurai to the Sub-Court, Sivagangai. The Madurai Bench of Madras High Court by order dated 24.02.2020 dismissed the same as not maintainable since this Court had already transferred the divorce petition from the Family Court, Chennai to the Family Court, Madurai as well as the petition seeking restitution of conjugal rights from Sub-Court, Devakottai to Family Court, Madurai. Under such circumstances, the petitioner-wife has come with the present Transfer CMP. It is not known how it is maintainable.

5. Learned Counsel appearing for the respondent-husband submitted that when the Family Court, Madurai, has seized of the HMOP.No.1074/2019 seeking dissolution of marriage filed by the husband and HMOP.No.1374/2019 seeking restitution of conjugal rights filed by the wife, it has dismissed the petition seeking the restitution of conjugal rights filed by the wife on the ground that there was no representation for the petitioner-wife on the particular date. Thereafter, a petition has been filed for restoration and the same is also pending. Now, the learned Family Court is taking up only the petition seeking dissolution of the marriage filed by the husband in HMOP.No.1074/2019. Therefore, she has been advised to come to this Court for transfer of the same to Sub-Court, Sivagangai or Family Court, Trichy or to any other court.

6. Learned Counsel appearing for the respondent further submitted that this is a fifth transfer plea made by the petitioner. When this Court had already accepted the case of the petitioner for transfer of the pending case in HMOP.No.1374/2019 from the Sub-Court, Devakottai to the Family Court, Madurai in its order dated 26.07.2019, for the reason that the HMOP.No.1374/2019 filed for restitution of conjugal rights was dismissed on the ground that the petitioner wife was not co-operating with the court, she has again come to this Court asking for transfer that would amount to reviewing the order dated 26.07.2019 passed by this Court in Tr.CMP.No.82/2019.

7. In reply, the learned Counsel for the petitioner submitted that when the wife has asked for the benefit of video conferencing as she is employed in Singapore, without considering the justifiable reason mentioned therein stating a

brief reason that there was nobody to appear on the particular date, the application filed seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act cannot be dismissed. In any event, the petition for restoration has been filed and the same is also pending. Therefore, if this court is not inclined to transfer the HMOP.No.1074/2019 on the file of the learned Family Court, Madurai, as prayed for by the petitioner, the benefit of video conferencing may be given to the petitioner, her parents and other witnesses since the same has become common in all walks of life.

8. Learned Counsel for the respondent also stated that today, since we are living amidst covid-19 pandemic situation, all courts from the level of Judicial Magistrate till High Court and even the Hon'ble Apex Court, are providing the video conferencing facilities to the litigants in order to avoid the spread of Corona virus. Therefore, he has no objection in extending the said benefit to both the parties, it is pleaded.

9. In the present case, the petitioner is serving in Singapore whereas the respondent is employed in one of the I.T. Companies in Bangalore and they cannot leave their jobs every now and then to appear for the hearings that are taking place far away from their places of work. Therefore, this Court has to accept the request of video conferencing. Further, the Government of Tamil Nadu has also been spending more money for this mode of hearing because now-a-days, in the Covid-19 pandemic situation, the video conferencing/virtual court proceedings are very much in need, it cannot be dispensed with. In view of all the above, accepting the joint request made by both counsels appearing for the parties, the learned Family Court Judge, Madurai, is directed to provide the benefit of video conferencing to the petitioner and the respondent, their parents and also to other witnesses who are also going to assist them through video conferencing wherever it is found to be reasonable and justifiable.

10. At this stage, it is pertinent to mention that this Court in its order dated 26.07.2019 has granted six months time to dispose of the case in HMOP.No.1074/2019. But, it appears that the parties have not co-operated for the disposal of the matter. Therefore, this Court grants another four months time for disposal of the case through video conferencing and both the parties are directed to give the list of witnesses who are going to appear for video conferencing before the learned Family Court, Madurai and on receipt of the same, the Family Court shall consider and give an expeditious disposal on merits within an outer limit of four months time.

11. With the above directions, the Transfer CMP is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

tsi

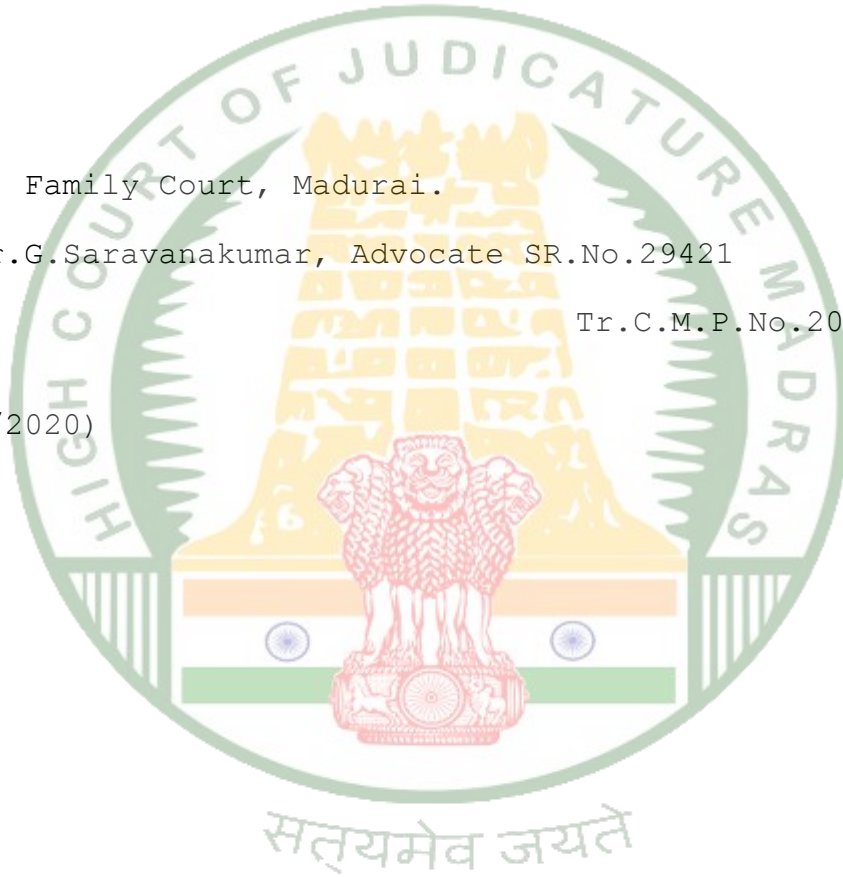
To

The Judge, Family Court, Madurai.

+1cc to Mr.G.Saravanakumar, Advocate SR.No.29421

Tr.C.M.P.No.209 of 2020

MR(CO)
GMY(23/09/2020)



WEB COPY