

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.179 of 2020

Mrs.Sagana

W/o Mr.Shri Ram

..Petitioner/Respondent

-vs-

Mr.Shri Ram

S/o Mr.Parameswaran

..Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer H.M.O.P.No.512 of 2020 from the file of the Family Court, Tuticorin to the file of the Court of Subordinate Judge, Chidambaram.

For Petitioner :: Mr.A.Muthukumar

For Respondent :: Ms.B.Preethi

ORDER

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

2. The petitioner, Mrs.Sagana, Wife of Mr.Shri Ram, the respondent herein has filed this transfer civil miscellaneous petition seeking an order to withdraw the H.M.O.P.No.512 of 2020 from the file of the Family Court, Tuticorin and transfer the same to the file of the Sub Court, Chidambaram.

3. Mr.A.Muthukumar, learned counsel appearing for the petitioner pleaded that both the petitioner and the respondent are B.E. Graduates. After their marriage was solemnized on 20.1.2019 at Ponmani Arangam, O.P.Main Road, Annamalai Nagar, Chidambaram, as per the Hindu rites and customs, the couple left for Dubai on 20.2.2019. After reaching Dubai, her husband's attitude changed, therefore, she got worried. At one point of time, when her intake became poor, she fainted. Hence, both of them consulted a doctor, who also advised the petitioner to take rest. Taking advantage of the advice given by the doctor to take rest, the respondent advised the petitioner to go back to the parental home to take rest. Although she resisted the said

move, the respondent prevailed upon her and arranged for her return ticket and sent the petitioner to Chennai on 21.4.2019. When the petitioner came back to Chidambaram on the same day, the respondent did not call the petitioner. After sometime, she received a notice in the H.M.O.P.No.512 of 2020 filed by her husband seeking for dissolution of marriage on the ground of cruelty before the Family Court, Tuticorin. Mr.A.Muthukumar, learned counsel appearing for the petitioner, referring to Section 19 of the Hindu Marriage Act, pleaded that when there was no cause of action arisen at Tuticorin, the petition for dissolution of marriage should not have been filed at Tuticorin, when the marriage was admittedly solemnized at Chidambaram. When Section 19(iii) also says that the petition can be filed in the Court within the local limits of whose civil jurisdiction the parties to the marriage last resided together and that the parties resided only at Chidambaram on the date of presentation of the petition, the petition for divorce ought not to have been filed before the Family Court at Tuticorin, which has no jurisdiction and hence the H.M.O.P.No.512 of 2020 should be transferred only to the Sub Court at Chidambaram. Secondly, it was submitted that the distance between Chidambaram and Tuticorin is also about 500 Kms. As the petitioner is residing in Chidambaram, it will be unsafe for her to undertake a long journey. Thirdly, as the respondent is residing and working in Dubai, whether the case is pending in the Court at Tuticorin or Chidambaram, is not a matter for the respondent and he can appear before the Sub Court at Chidambaram.

4. Learned counsel appearing for the respondent, opposing the above prayer, stated that since the respondent has been presently living and working in Dubai, the pending case can be transferred either to Madurai, Tiruchirappalli or Chennai, where the international flights are available. However, after some arguments, she stated that her client is also agreeable for participating in the proceedings before the Sub Court, Chidambaram through video conference.

5. Having heard learned counsel for parties, this Court, taking note of the fact that the respondent has filed the H.M.O.P.No.512 of 2020 on the file of the Family Court at Tuticorin seeking for dissolution of marriage, in violation of the situations contemplated under Section 19 of the Hindu Marriage Act, which has no jurisdiction, and also taking into account that the distance between Tuticorin and Chidambaram is about 500 Kms., which the petitioner, being a woman, would find it difficult, this Court hereby withdraws the H.M.O.P.No.512 of 2020 from the file of the Family Court, Tuticorin and transfers the same to the Sub Court at Chidambaram for disposal on merits and in accordance with law. However, since the respondent is residing and working at Dubai, taking into account the present

Covid-19 corona pandemic situation, this Court permits the respondent to participate in the proceedings through video conference when the case is taken up for hearing by the Court below. With this observation, the transfer civil miscellaneous petition stands allowed. Consequently, C.M.P.No.5791 of 2020 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Family Court Judge
Tuticorin

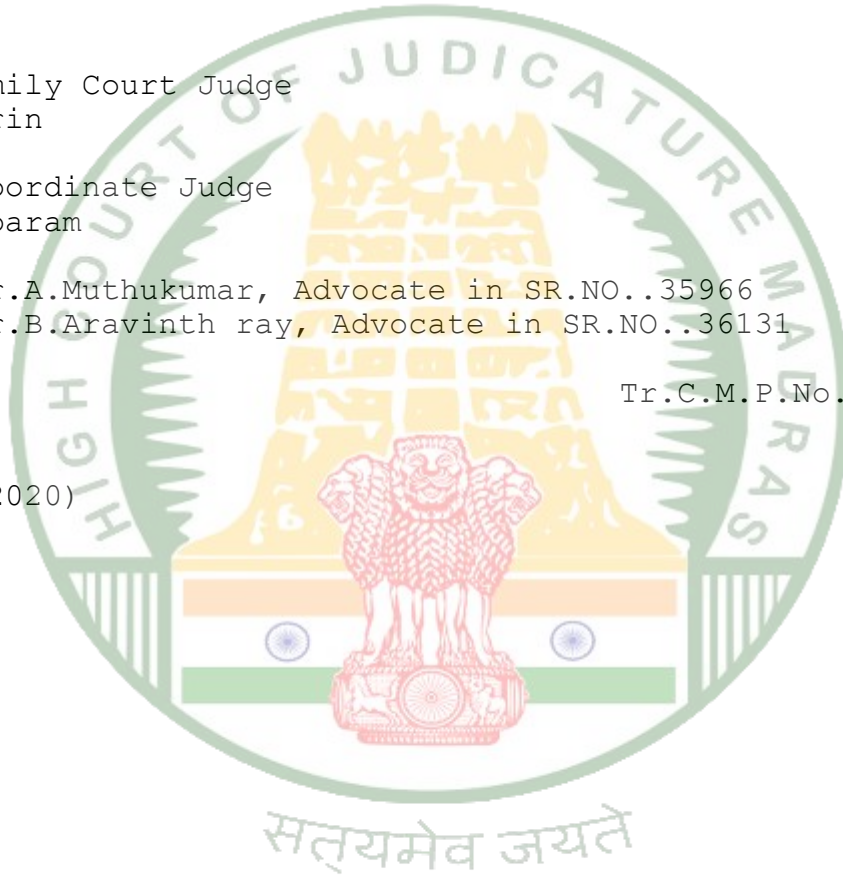
2. The Subordinate Judge
Chidambaram

+1cc to Mr.A.Muthukumar, Advocate in SR.NO..35966

+1cc to Mr.B.Aravinth ray, Advocate in SR.NO..36131

Tr.C.M.P.No.179 of 2020

RLD(CO)
RV(04/12/2020)



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