

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.188 of 2020 and
CMP.No.6034/2020

Kanimozhi

..Petitioner

-VS-

Rajendrakumar

..Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw and transfer the HMOP.No.173 of 2019 on the file of the learned Subordinate Judge, Omalur to the file of the learned Subordinate Judge, Harur to be tried along with HMOP.No.3/2020 pending on the said Court.

For Petitioner :: Mr.V.Suryanarayana Reddy

For Respondent :: No Appearance

ORDER

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

2. The petitioner has filed this Transfer Civil Miscellaneous Petition seeking to withdraw and transfer the HMOP.No.173 of 2019 on the file of the learned Subordinate Judge, Omalur to the file of the learned Subordinate Judge, Harur to be tried along with HMOP.No.3/2020 pending on the said Court.

3. Learned Counsel appearing for the petitioner submitted that the marriage between the petitioner-wife and the respondent-husband was solemnized on 20.05.2015 at Karuvalli Chinna Tirupathi Shri Prasanna Venkatramana Swamy Thirukoil, Venkateswara Mahal Hall, Kadayanpatti Taluk, Salem District. Out of the said wedlock, a female child was born on 12.12.2016, namely, Abhinaya. It is stated that during her fifth month of

pregnancy, the petitioner went to her parental home for delivery and after the delivery of the female child and it was intimated to the respondent and his parents, there was no any response. In the meanwhile, the petitioner also received a summon from the Subordinate Court, Omalur on the petition filed by the respondent-husband demanding divorce from her, without there being any valid reasons. When the petitioner finds it difficult to maintain herself and her 3 years old female child, it is very hard for her to undergo a long journey from Harur to Omalur which is about 90 kms. Further, the petitioner wife has also filed HMOP.No.3/2020 before the learned Subordinate Judge, Harur seeking restitution of conjugal rights. Therefore, the respondent has to come and appear before the Subordinate Court, Harur to answer the petition for restitution of conjugal rights. Hence, the present Transfer CMP is filed to withdraw and transfer the HMOP.No.173 of 2019 on the file of the learned Subordinate Judge, Omalur to the file of the learned Subordinate Judge, Harur to be tried along with HMOP.No.3/2020 pending on the said Court.

4. Although court notice was served on the respondent and the name of the respondent has been printed in the cause list, no one appeared that shows that the respondent has no objection for allowing the transfer plea. Secondly, the petitioner is living with her 3 years old female child. Hence, this Court is of the view that with the infant child, it is highly difficult for the petitioner wife to undertake 90 kms. travel from Harur to Omalur. Thirdly, she has also filed HMOP.No.3/2020 under Section 9 of the Hindu Marriage Act, 1955, seeking restitution of conjugal rights before the learned Subordinate Judge, Harur. Therefore, this Court, accepting that the balance of convenience is in favour of the petitioner, inclined to withdraw the HMOP.No.173/2019 on the file of the learned Subordinate Judge, Omalur and transfer the same to the file of the Subordinate Judge, Harur with a direction to the learned Subordinate Judge, Harur to try both the HMOP.No.173/2019 and HMOP.No.3/2020 jointly and pass appropriate orders expeditiously on merits and in accordance with law.

5. With the above directions, the Transfer CMP is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

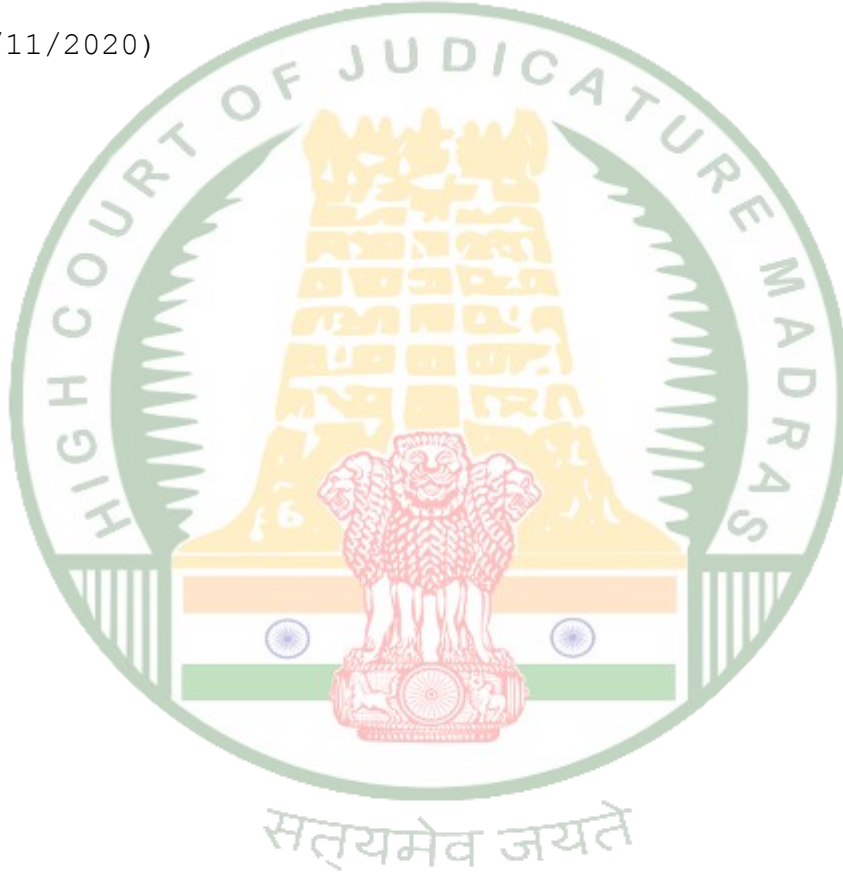
1. The Subordinate Judge, Omalur, Salem District.

2. The Subordinate Judge, Harur.

+2cc to Mr.V.Surya Narayana Reddy, Advocate, Sr.Nos.33038 &
32947

Tr.C.M.P.No.188 of 2020

rr ii (19/11/2020)



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