

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.221 of 2020

R.Karthika

.. Petitioner

Versus

M.Rajasekaran

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw G.W.O.P.No.143 of 2019 pending on the file of learned Principal District Judge, Tirupur and to transfer the same to the learned II Additional Family Court, Chennai.

For Petitioner : Mr.E.Maharajan

For Respondent : No Appearance

O R D E R

Heard the parties through Video Conferencing due to COVID-19 pandemic.

2. Mrs.R.Karthika/petitioner herein, wife of Mr.M.Rajasekaran/respondent herein, has again come to this Court by filing this Transfer Civil Miscellaneous Petition seeking to transfer G.W.O.P.No.143 of 2019 which was subsequently renumbered as O.P.No.927 of 2020 from the file of learned Family Court, Tirupur, to the file of learned II Additional Family Court, Chennai.

3. Learned counsel appearing for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 17.05.2012 at Kamatchi Amman Marriage Hall, Tiruppur, as per Hindu Rites and Customs, in the presence of well-wishers of both family. Out of the said wedlock, a male child was born to them on 10.03.2013. Thereafter, due to some difference of opinion between them,

they were living separately. As the petitioner/wife alone was taking care of the male child, she filed a maintenance case in M.C.No.512 of 2019 on the file of learned II Additional Family Court, Chennai, and the same is pending. Whiles, the respondent/husband has filed H.M.O.P.No.430 of 2018 before the learned Sub-Court, Tiruppur, seeking for restitution of conjugal rights. Since it was not feasible for her to travel from Chennai to Tiruppur, earlier she has filed Tr.C.M.P.No.577 of 2019 seeking to transfer H.M.O.P.No.430 of 2018 to Chennai and this Court, by order dated 14.10.2019, transferred the said case to the file of learned II Additional Family Court, Chennai.

4. While the matter stood as above, it is stated, in order to drag on the proceedings, the respondent/husband has once again filed G.W.O.P.No.143 of 2013 before the learned Principal District Judge, Tiruppur, seeking custody of the child. Later-on, on administrative side, the said case was transferred to the file of learned Family Court, Tiruppur, and renumbered as O.P.No.927 of 2020. It is further argued that since the case filed by the husband in H.M.O.P.No.430 of 2018 seeking for restitution of conjugal rights has already been transferred to the file of learned II Additional Family Court, Chennai, the second case filed by the husband seeking custody of the child in O.P.No.927 of 2020 also may be transferred to the file of learned II Additional Family Court, Chennai, for joint trial at one place.

5. Although Court notice is served on the respondent/husband, no one represented the case on behalf of him, that shows that he has no objection in transferring the case to the file of learned II Additional Family Court, Chennai. Secondly, on the earlier occasion, when the respondent/husband filed H.M.O.P.No.430/2018 on the file of learned Sub-Court, Tiruppur, seeking for restitution of conjugal rights, this Court, by order dated 14.10.2019 passed in Tr.C.M.P.No.577 of 2019, has already ordered for transfer of said HMOP to the file of learned II Additional Family Court, Chennai, and the same is pending along with M.C.No.512 of 2019 filed by the wife seeking for maintenance. Thirdly, the distance between Chennai and Thiruppur is more than 450 kms, and therefore, it is difficult for the petitioner/wife, who is having 5 years old child in her custody, to undertake such a long journey at this difficult time due to COVID-19 pandemic. Thus, considering the balance of convenience in favour of wife, O.P.No.927 of 2020 filed by the husband is withdrawn from the file of learned Family Court, Tiruppur, consequently, transferred to the file of learned II Additional Family Court, Chennai, to be tried along with M.C.No.512 of 2019 and H.M.O.P.No.430 of 2018. On such transfer, learned II Additional Family Court, Chennai, shall dispose of all these three cases together in the manner known to law as

expeditiously as possible. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.6677 of 2020 is closed.

Sd/-

Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

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To

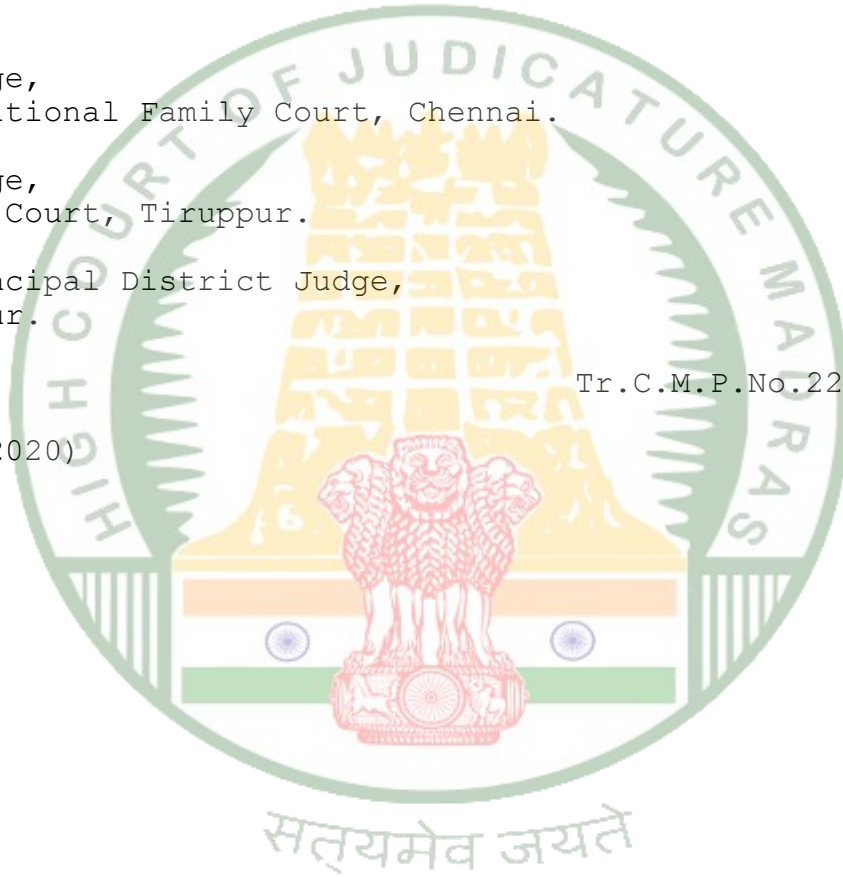
1.The Judge,
II Additional Family Court, Chennai.

2.The Judge,
Family Court, Tiruppur.

3.The Principal District Judge,
Tiruppur.

BR(CO)
CB(21/09/2020)

Tr.C.M.P.No.221 of 2020



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