

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.411 of 2020 and
CMP.No.7408/2020

S.Nicholas

.. Petitioner

-vs-

A.Divya

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.63/2019 on the file of the Sub-Court, Vaniyambadi and transfer the same to Sub-Court, Vellore.

For Petitioner :: Mr.R.Dhinesh Kumar

For Respondent :: Mr.S.Anand Venkatesh

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 the H.M.O.P.No.63/2019 on the file of the Sub-Court, Vaniyambadi and transfer the same to the Sub-Court, Vellore.

3. Learned Counsel appearing for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 02.12.2017. While so, due to some misunderstanding arose between them, the respondent wife left the matrimonial home and also filed HMOP.No.63/2019 seeking restitution of conjugal rights before the Sub-Court, Vaniyambadi. After filing this HMOP, she went to Bangalore for work. Adding further, it is stated that the petitioner has filed Divorce Petition in HMOP.No.115/2019 before the Family Court, Vellore and the respondent had chosen not to appear before the Family Court, Vellore and dragged on the matter. However, she demanded Rs.5,00,000/- for settling the matter for giving mutual consent. The petitioner paid the said amount demanded, out of great difficulty, although he is an unemployed and seeking for suitable job. Even after the receipt of the amount demanded for settlement, the respondent has not turned up to give her consent for divorce. Therefore, the petitioner has advised to come to

this Court to withdraw HMOP.No.63/2019 from the Sub-Court, Vaniyambadi and transfer the same to the Sub-Court, Vellore.

4. Learned Counsel for the respondent opposing the above statement made by the learned Counsel for the petitioner submitted that the contentions of the petitioner that the respondent has received Rs.2.5 Lakhs on one occasion and again Rs.1.25 Lakhs on yet another occasion are utterly false. The petitioner has never paid any amount at any point of time to the respondent.

5. Considering the facts and circumstances of the matter and also the fact that the petitioner is not able to show any proof for payment of any amount to the respondent to settle the dispute between them, this Court is not in a position to accept the payment of money in the absence of any proof. Further, the Additional Affidavit of the petitioner-husband shows that several cases have been filed by the respondent wife against him, namely, M.C.No.2/2019 filed seeking maintenance before the learned Judicial Magistrate, Ambur, HMOP.No.63/2019 filed seeking restitution of conjugal rights before the learned Subordinate Judge,

Vaniyambadi, FIR.No.1/2020 was registered by the All Women Police Station, Ambur on the complaint given by the respondent wife for dowry harassment and Domestic Violence Case in DVC.No.2/2020 filed before the Additional District Munsif-cum-Judicial Magistrate, Ambur and all the cases are pending till today.

6. Considering the fact that all the above mentioned cases are pending at two places and most of the cases are pending in Ambur Courts, this Court in the larger interest of both the parties, is of the considered view that all those cases should be heard by courts at one place. The same was accepted by both the parties. Therefore, the HMOP.No.63/2019 pending on the file of the learned Subordinate Judge, Vaniyambadi is withdrawn and transferred to the file of the learned Subordinate Judge, Ambur. Likewise, the HMOP.No.115/2019 filed by the petitioner husband pending before the Family Court, Vellore, is withdrawn and transferred to the file of the learned Subordinate Judge, Ambur for joint trial along with HMOP.No.63/2019.

7. The Transfer CMP is disposed of accordingly.
Consequently, connected Miscellaneous Petition is closed.

30.09.2020

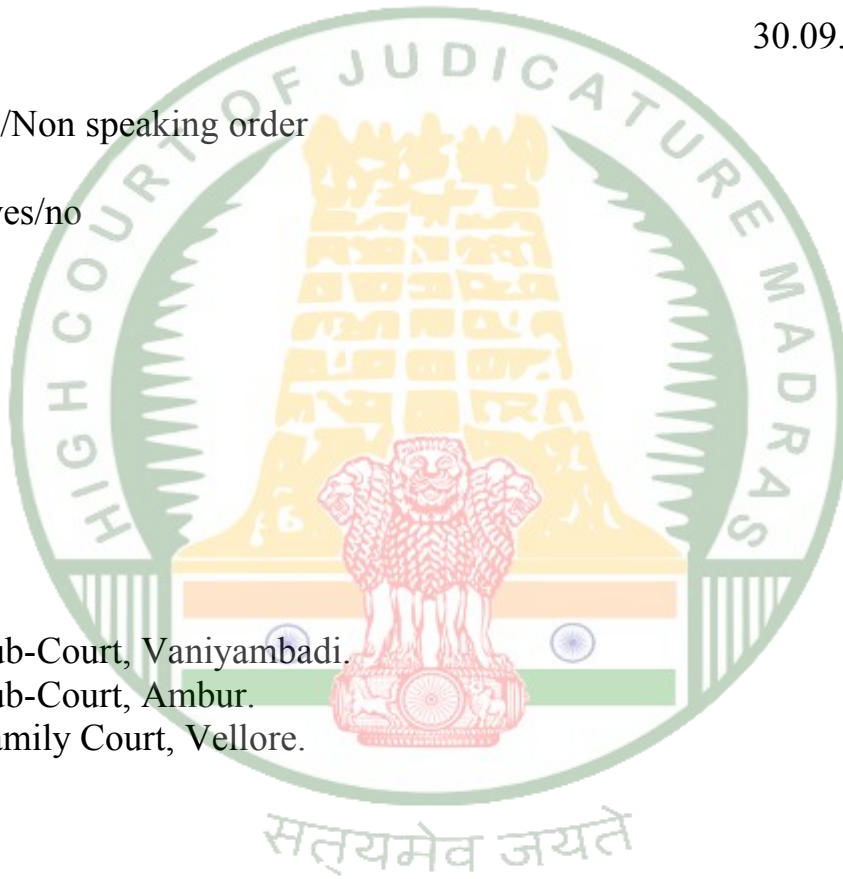
Speaking/Non speaking order

Index : yes/no

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To

1. The Sub-Court, Vaniyambadi.
2. The Sub-Court, Ambur.
3. The Family Court, Vellore.

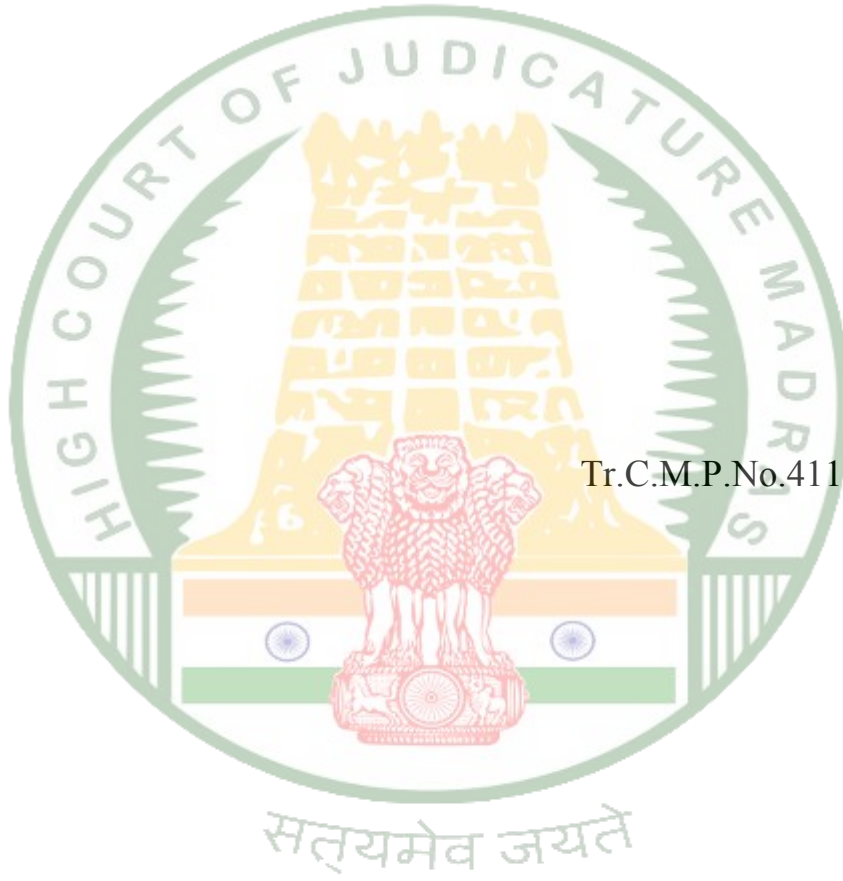


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T.RAJA, J.

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