

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.470 of 2020

K.Punniya Kotteswaran

.. Petitioner

Versus

L.Mona alias Meenakshi

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw the proceedings pending in H.M.O.P.No.249 of 2019 from the file of learned Family Court, Trichy, and to transfer the same to the file of learned VII Additional Family Court, Chennai.

For Petitioner : Mr.B.Kalaiarasan

For Respondent : No Appearance

O R D E R

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

2. Mr.K.Punniya Kotteswaran/petitioner herein, husband of Mrs.L.Mona @ Meenakshi/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.249 of 2019 from the file of learned Family Court, Trichy, to the file of learned VII Additional Family Court, Chennai. The above said HMOP was filed by the respondent/wife seeking for dissolution of marriage.

3. Learned counsel appearing for the petitioner/husband submitted that the marriage between the petitioner and the respondent was solemnized on 09.02.2009 at Thanthai Periyar Thirumana Mandabam, Anna Nagar West, Chennai, as per Hindu Rites and Customs. Out of the said wedlock, they were blessed with a male child on 27.11.2009 by name Sachin and he is now aged about 11 years and studying at State Bank Officers' Association (SBOA) School, Chennai. When they were living happily, the respondent/wife demanding a separate family life left the

matrimonial home with his son. Thereafter, the petitioner/husband, who is doing a business of selling jewels in the name and style of 'Srinivasa Jewel Makers', has filed a petition under Section 9 of the Hindu Marriage act, 1955, seeking for restitution of conjugal rights, in H.M.O.P.No.1138 of 2019 before the learned VII Additional Family Court, Chennai, and the same is pending now. After receipt of notice, the respondent/wife has filed H.M.O.P.No.249 of 2019 on the file of learned Family Court, Trichy, seeking for divorce, taking a false ground that there is no security for her and her son.

4. It is further submitted that only son, who was staying with the wife for some time, also refused to stay with her and now, he is in custody of the petitioner/husband and also admittedly pursuing 6th standard in SBOA, Chennai. Therefore, he pleaded, as the petitioner/husband has to take care of his school going son, it is difficult for him to undertake a long journey from Chennai to Trichy, which is more than 300 kms., to attend each and every hearing. Besides, he has also filed H.M.O.P.No.1138 of 2019 seeking for restitution of conjugal rights and the same is pending on the file of learned VII Additional Family Court, Chennai, and therefore, if the case filed by the wife is transferred from the file of learned Family Court, Trichy, then it will be convenient for both parties to attend the court proceedings in one place, namely, VII Additional Family Court, Chennai.

5. Although Court notice is served on the respondent/wife, no one represented the case on behalf of her, that shows that she has no objection in transferring the case to the file of learned VII Additional Family Court, Chennai. Secondly, the petitioner/husband has already filed H.M.O.P.No.1138 of 2019 seeking for restitution of conjugal rights and the same is pending before the learned VII Additional Family court, Chennai. Thirdly, the petitioner/husband is taking care of his school going son, who is studying 6th standard in SBOA School, Chennai, and therefore, it will be difficult for him to undertake a long journey from Chennai to Trichy, which is more than 300 kms., to attend each and every hearing along with his school going son, and on the contrary, if the case is transferred to Chennai, it will be convenient for both parties to conduct the case in one Court. Fourthly, the respondent/wife has not filed any petition seeking transfer of the case filed by the husband. Thus, considering the balance of convenience in favour of the petitioner/husband and his son, H.M.O.P.No.249 of 2019 filed by the wife is withdrawn from the file of learned Family Court, Trichy, consequently, transferred to the file of learned VII Additional Family Court, Chennai, to be tried along with H.M.O.P.No.1138 of 2019 filed by the husband. On such transfer, learned VII Additional Family Court, Chennai, shall dispose of

both the cases 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.11459 of 2020 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

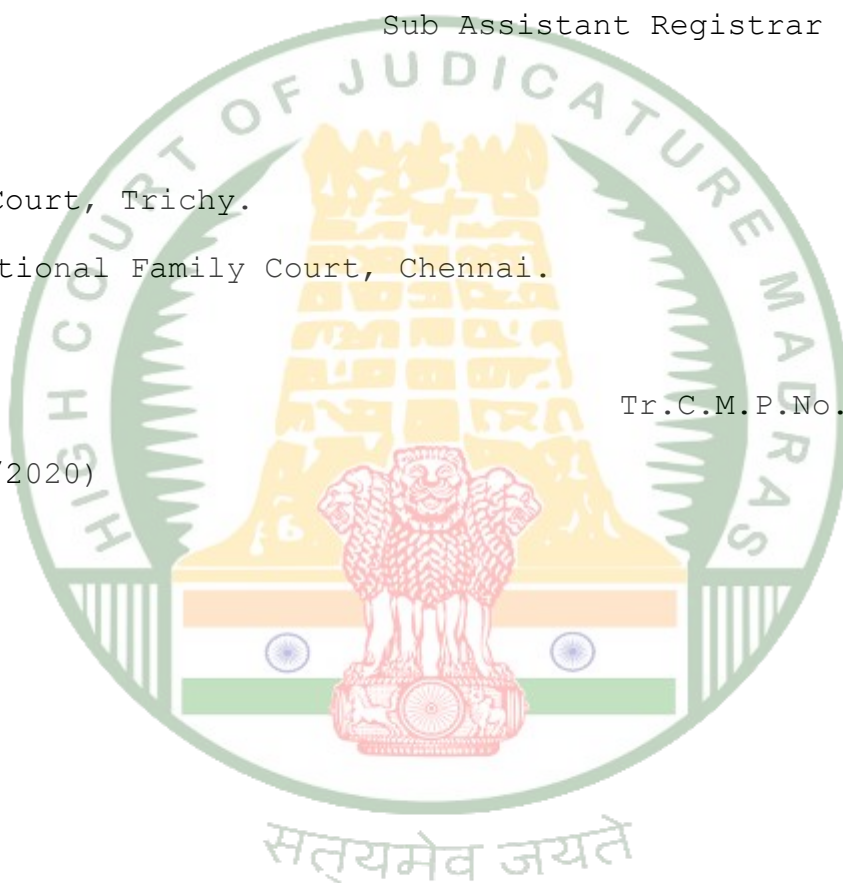
To

1.Family Court, Trichy.

2.VIIAdditional Family Court, Chennai.

NRL (CO)
RMP (15/12/2020)

Tr.C.M.P.No.470 of 2020



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