

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.498 of 2020

Lakshmi Priya @ Sahana

... Petitioner/Respondent

Versus

Noormohamed

... Respondent/Petitioner

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw the proceedings pending in O.S.No.101 of 2020 from the file of learned 1st Additional District Munsif Court, Thirukovilur, Kallakurichi District, and to transfer the same to the file of learned District Munsif Court, Mettur, Salem District.

For Petitioner : Mr.M.Senthilkumar

For Respondent : No Appearance

O R D E R

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

2. Mrs.Lakshmi Priya @ Sahana, wife of Mr.Noormohamed/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer O.S.No.101 of 2020 from the file of learned 1st Additional District Munsif, Thirukovilur, Kallakurichi District, to the file of learned District Munsif Court, Mettur, Salem District. The above said OS was filed by the respondent/husband under Order 7 Rule 1 and Section 9 of CPC read with Section 281 Mohammedan Law seeking for restitution of conjugal rights.

3. Learned counsel for the petitioner/wife submitted that the petitioner/wife is a doctor and the respondent/husband is working as a driver in 108 Ambulance of Villupuram Medical College. While she was studying in Villupuram Medical College in the year 2016, she fell in love with the respondent/husband and thereafter, she married him on 16.10.2016 at Keelpalayam Sunnath Jamath Mahkka Majid, Elavanasurkottai, Kallakurichi

District. Out of the said wedlock, a female child was born on 15.11.2017 by name Shifana. Thereafter, due to difference of opinion, the respondent and his family members attacked her so badly and therefore, she has given a complaint on 23.07.2020 before All Women Police Station against the respondent/husband. In the meanwhile, the respondent/husband has filed O.S.No.101 of 2020 under Order 7 Rule 1 and Section 9 of CPC read with Section 281 Mohammedan Law seeking for restitution of conjugal rights and the same is pending before the learned 1st Additional District Munsif Court, Thirukovilur. It is further submitted that the petitioner/wife is also planning to file a petition for divorce and therefore, since the petitioner/wife is having the custody of 3 years old female child, it is not feasible for her to undertake a long journey from Mettur to Thirukovilur, which is more than 200 kms., to attend each and every hearing. Hence, he pleaded, for the convenience of wife and 3 years old female child, the case filed by the respondent/husband may be transferred to the file of learned District Munsif Court, Salem.

4. 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 District Munsif Court, Mettur. Secondly, the petitioner/wife is residing at Ponnagar, Mettur Dam, along with her 3 years old female child and therefore, it is difficult for the petitioner/wife to undertake such a long journey from Mettur to Thirukovilur, which is more than 200 kms., to attend each and every hearing. Thus, considering the balance of convenience in favour of wife and 3 years old child, O.S.No.101 of 2020 filed by the husband is withdrawn from the file of learned 1st Additional District Munsif, Thirukovilur, Kallakurichi District, consequently, transferred to the file of learned District Munsif Court, Mettur, Salem District. On such transfer, learned District Munsif Court, Mettur, Salem District, shall dispose of the same 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.12381 of 2020 is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rkm

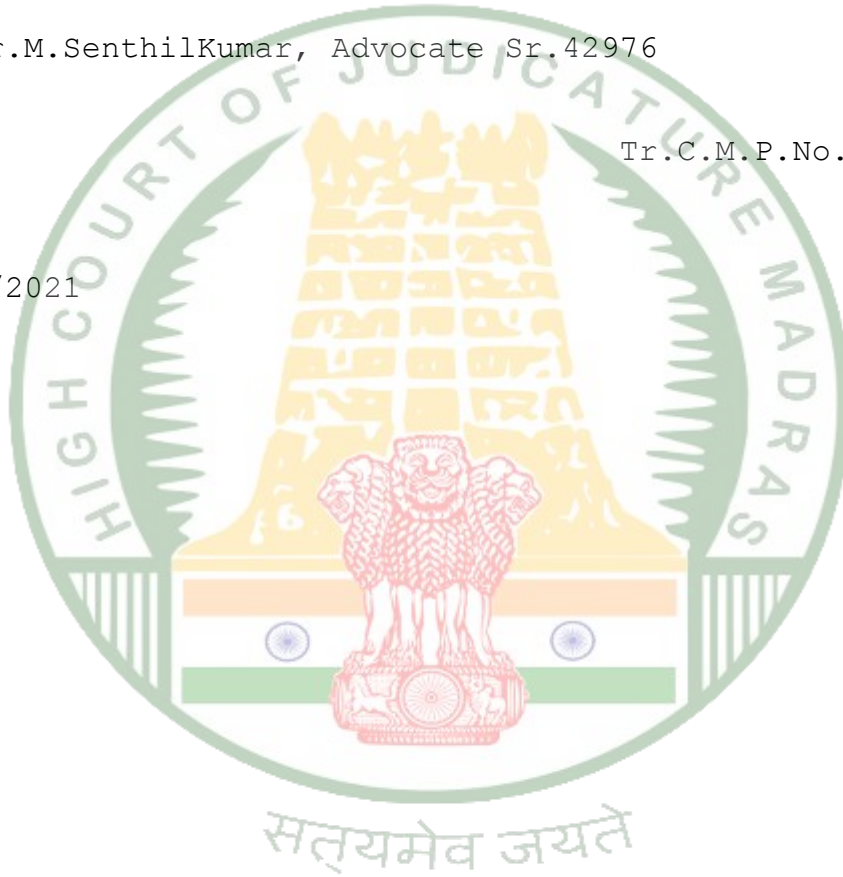
To

1. The 1st Additional District Munsif,
Thirukovilur, Kallakurichi District,
2. The District Munsif,
Mettur, Salem District.

+1cc to Mr.M.SenthilKumar, Advocate Sr.42976

Tr.C.M.P.No.498 of 2020

vg II[co]
srg 19/01/2021



WEB COPY