

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.601 of 2019

G.Pavithra

.. Petitioner

-vs-

P.P.Srinivasan

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.212 of 2019 on the file of the Sub Court, Tambaram and transfer the same to the Sub Court, Thirupathur, Vellore to be tried along with H.M.O.P.No.94 of 2019 pending on the file of the Sub Court, Thirupathur, Vellore.

For Petitioner :: Mr.K.G.Vipra Narayanan

For Respondent :: Mr.B.Mahendra Naidu

ORDER

Heard learned counsel for the parties through video conferencing due to the Covid-19 pandemic.

2. The petitioner-Mrs.G.Pavithra, Wife of Mr.P.P.Srinivasan, the respondent herein has filed this transfer civil miscellaneous petition seeking withdrawal of the H.M.O.P.No.212 of 2019 from the file of the Sub Court, Tambaram and transfer the same to the Sub Court, Thirupathur, Vellore, to be tried along with H.M.O.P.No.94 of 2019 filed by the petitioner under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights.

3. Learned counsel appearing for the petitioner submitted that after the marriage was solemnized between the parties on 15.4.2015 at Aaryavysya Aamajam (AVS) Thirumana Mandapam, No.30, Chetty Street, Thirupathur Town, as per the Hindu rites and customs in the presence of elders and relatives of both the families, the said marriage was also registered on the same day in the office of Registrar of Marriages at Thirupathur under the

provisions of the Tamil Nadu Registration of Marriages Act, 2009. After the marriage, they lived happily and they were also blessed with two children. But both the children unfortunately died. After the death of the second child, the respondent is showing aversion to the petitioner, resultantly he got separated and that the petitioner is staying in her parental house. She also filed H.M.O.P.No.94 of 2019 under Section 9 of the Hindu Marriage Act expressing her willingness for re-union and the same is pending before the Sub Court, Thirupathur, Vellore along with the petition for interim relief of maintenance till the disposal of the said H.M.O.P. Therefore, the respondent has to come and appear before the Sub Court, Thirupathur to attend the trial in H.M.O.P.No.94 of 2019. Since the petitioner is living with her parents, it will be highly difficult for her to undertake a long journey to the Sub Court, Tambaram. Therefore, the H.M.O.P.No.212 of 2019 filed by the respondent for divorce under Section 13(i)(i-a) of the Hindu Marriage Act may be transferred to the Sub Court, Thirupathur, Vellore.

4. Learned counsel appearing for the respondent submitted that the respondent is working in Steel Authority of India Limited, Vishakapatnam, which is not a transferable job and he will not be able to get frequent leave from his establishment. Therefore, he has been advised to file a memo before this Court showing that he is prepared to bear the to and fro expenses of the petitioner. Hence, the matter can be transferred to Chennai where both the parties can appear.

5. But this Court is not able to find any justification for the respondent seeking for transfer of the case from the Sub Court, Tambaram to the Family Court at Chennai. The reason being that the H.M.O.P.No.94 of 2019 filed by the petitioner under Section 9 of the Hindu Marriage Act for restitution of conjugal rights is pending before the Sub Court, Thirupathur, Vellore, where he has to appear and cooperate for the disposal of the matter, which has not been done. In any event, since the respondent has to appear before the Sub Court, Thirupathur, Vellore and contest the petition filed for restitution of conjugal rights, there is no point in keeping this matter pending at the Sub Court, Tambaram or the Family Court, Chennai as requested by the respondent. Hence, considering the balance of convenience of both parties, the H.M.O.P.No.212 of 2019 filed by the respondent for divorce is withdrawn from the file of the Sub Court, Tambaram and transferred to the Sub Court, Thirupathur, Vellore for an expeditious disposal on merits along with H.M.O.P.No.94 of 2019. The transfer civil miscellaneous

petition stands allowed. Consequently, C.M.P.No.17274 of 2019 is closed.

-s/d-
Assistant Registrar

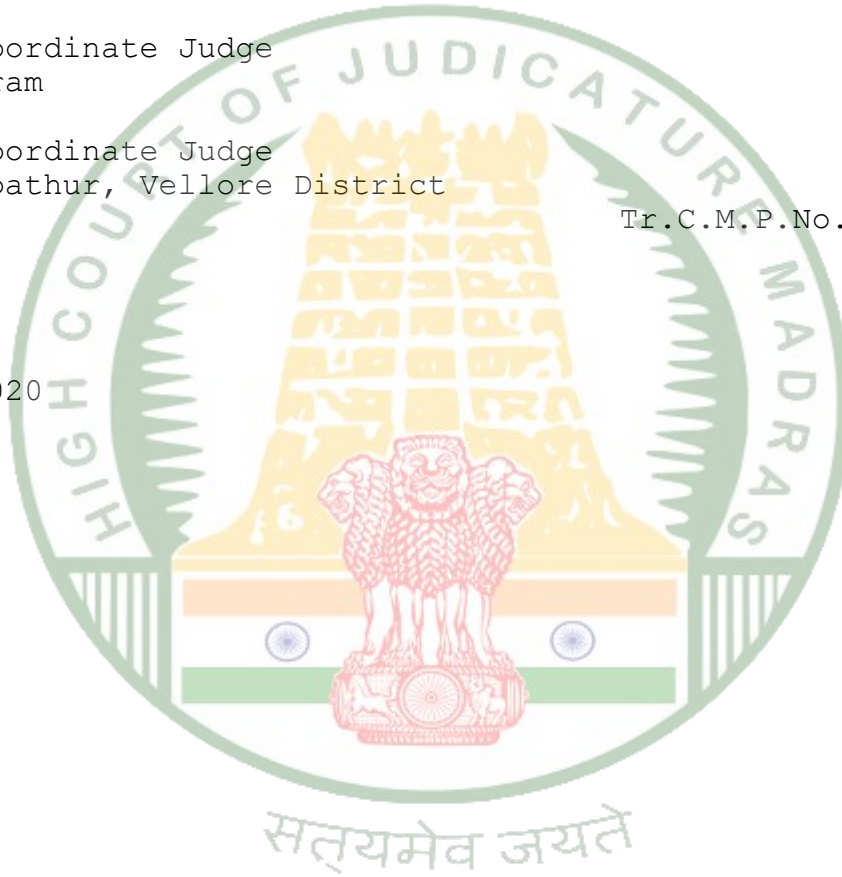
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Sub-Assistant Registrar

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To

1. The Subordinate Judge
Tambaram
2. The Subordinate Judge
Thirupathur, Vellore District

Tr.C.M.P.No.601 of 2019

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