

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.651 of 2019

C.Mythili

... Petitioner

Versus

V.Vijayakumar

... Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.67 of 2019 pending on the file of learned Sub-Court, Mettur, and transfer the same to the file of learned Sub-Court, Gobichettipalayam, and try the same along with the HMOP.No.78 of 2019 pending on the file of learned Sub-Court, Gobichettipalayam.

For Petitioner : Ms.C.Meena
for Mr.M.Guruprasad

For Respondent : Mr.M.R.Jothimanian

O R D E R

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

2. The petitioner/wife has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.67 of 2019 from the file of learned Sub-Court, Mettur, to the file of learned Sub-Court, Gobichettipalayam, to try along with the case filed by the wife in H.M.O.P.No.78 of 2019 seeking for restitution of conjugal rights. The above said H.M.O.P.No.67 of 2019 was filed by the husband seeking for divorce.

3. Learned counsel for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 11.12.2013 at Arulmigu Thiruvengadamudalyan Temple, Karaikudi Taluk, Sivagangai District, as per the Hindus Rites and Customs. After the marriage, they were also blessed with a boy child, now aged about 3 years. It is also submitted that before the marriage, they know each other and they were

studying in a coaching centre at Sivaganga and it was a love marriage. Subsequently, the petitioner was appointed as Assistant Engineer (Building), PWD, and joined the duty at PWD office, Gobichettipalayam, on 17.04.2015. However, the respondent's parents refused to accept her due to caste difference and finally, the respondent/husband left to his parental home stating that his father is sick. Since he did not respond for about few months, she has filed H.M.O.P.No.78 of 2019 before the learned Sub-Court, Gobichettipalayam, seeking for restitution of conjugal rights. Thereafter, as a counter blast, the respondent/husband has filed H.M.O.P.No.67 of 2019 before the learned Sub-Court, Mettur, seeking for divorce. Therefore, unless the case filed by the husband is transferred to the file of learned Sub-Court, Gobichettipalayam, the petitioner/wife may not be in a position to sort-out the issue.

4. Learned counsel for the respondent/husband submitted that at the time of marriage, the petitioner/wife was unemployed, however, when she was subsequently selected and appointed as Assistant Engineer (Building), PWD, Gobichettipalayam, her behaviour got changed. In the meanwhile, they were also blessed with a baby boy, aged 3 years now. Since the petitioner/wife wanted to keep the respondent's parents away from the matrimonial home, respondent/husband left from her, as he has to take care of his aged parents. It is further submitted that now, she has completed three years of service at Gobichettipalayam and there is every possibility of transfer from Gobichettipalayam to Salem, where her parents are residing. Therefore, instead of transferring the case to learned Sub-Court, Gobichettipalayam, the matter may be transferred to Salem, which is a common place to both of them.

5. It is at this stage, learned counsel for the petitioner/wife submitted that after the demise of her father on 16.03.2014, the petitioner/wife, her mother and her 3 years old son left from Salem and they are presently living at Gobichettipalayam, and therefore, it is difficult for her undertake long journey from Gobichettipalayam to Mettur, which is more than 50 kms., to attend each and every hearing.

6. Considering the fact that the petitioner/wife is presently working and living at Gobichettipalayam along with her aged mother and 3 years old baby boy, I am of the view that it is not feasible for her to undertake long journey i.e., more than 50 kms., to attend each and every hearing. Therefore, H.M.O.P.No.67 of 2019 filed by the husband is withdrawn from the file of learned Sub-Court, Mettur, consequently, transferred to the file of learned Sub-Court, Gobichettipalayam, to be tried along with H.M.O.P.N.o.78 of 2019 filed by the wife. On such

transfer, learned Sub-Court, Gobichettipalayam, shall dispose of both the 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.18761 of 2019 is closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

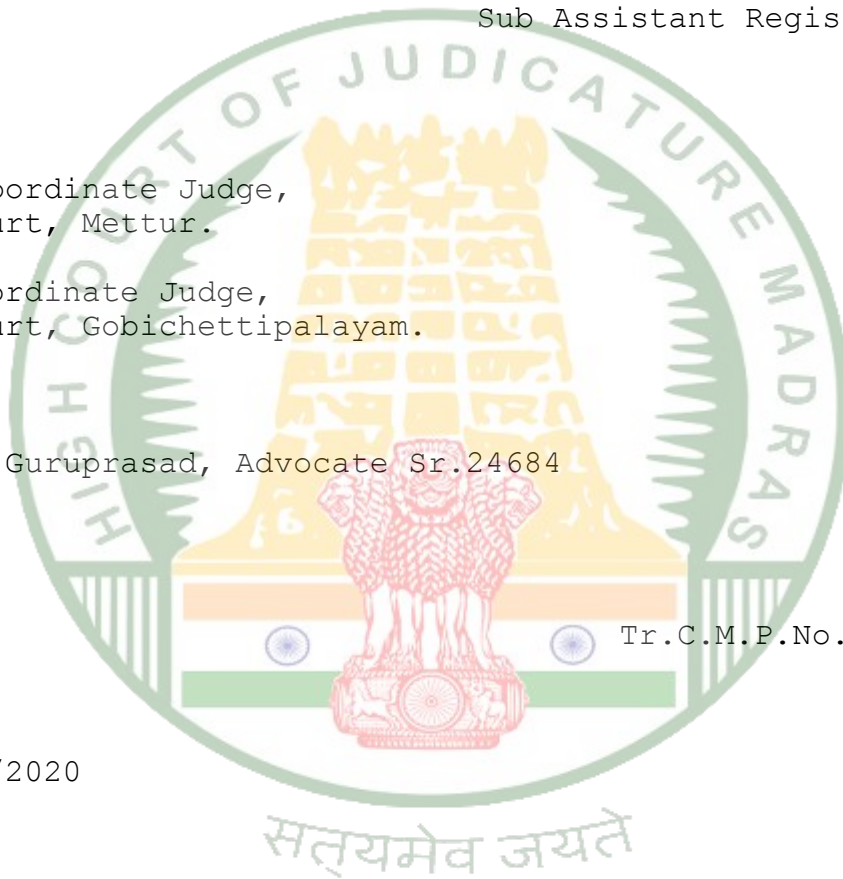
To

1. The Subordinate Judge,
Sub-Court, Mettur.
- 2.The Subordinate Judge,
Sub-Court, Gobichettipalayam.

+lcc to M.Guruprasad, Advocate Sr.24684

Tr.C.M.P.No.651 of 2019

rsv[co]
srg 25/08/2020



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