

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.1000 of 2019

K.Ramki

Petitioner

-VS-

Athithya

W/o K.Ramki

Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.347 of 2019 pending before the Hon'ble Family Court at Cuddalore and transfer the above case to the Family Court at Chennai or to any other Family Court within the jurisdiction of this Hon'ble High Court.

For Petitioner

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Mr.Ragav Balasubramanian for
M/s Adi Narayana Rao

For Respondent

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Mr.V.Rajesh Babu

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

2. Mr.K.Ramki, Husband of Mrs.Athithya, the respondent herein, has filed this transfer civil miscellaneous petition seeking for withdrawal of the H.M.O.P.No.347 of 2019 from the file of the Family Court, Cuddalore and transfer the same to the file of the Family Court, Chennai or to any other Family Court within the jurisdiction of this Court.

3. Learned counsel appearing for the petitioner submitted that after the marriage was solemnized with the respondent on 14.12.2018 as per the Hindu rites and customs, they were living together only for ten days. At the time of marriage, the respondent/wife was employed as a teacher in a private school. After the marriage, she resigned the teacher's post. The petitioner is running a travel agency by owning a tourist taxi bearing Registration No.TN 07 CM 9399 and he is also working as a Driver. Now he has moved to Chennai for earning purpose. Thereafter, he arranged a matrimonial house for leading a happy matrimonial life and after making arrangements, he asked his wife to come down to the matrimonial home at Chennai. But she was not willing to come to Chennai. Moreover, the respondent/wife has neglected the petitioner and they were living separately for some time. Taking note of their separate living, the petitioner's friends and well wishers made all arrangements for convening a panchayat

for compromising the matter. But all the steps taken by the petitioner's well wishers turned futile. Therefore, the petitioner's father lodged a complaint before the All Women Police Station, Neyveli on 5.2.2019 and the Inspector of Police of All Women Police Station, Neyveli advised the respondent/wife to join the matrimonial life. But she did not show any positive result. Hence, the petitioner filed H.M.O.P.No.15 of 2019 before the Principal Sub Court, Neyveli seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act and the same was also allowed ex parte. It is at this juncture, learned counsel appearing for the respondent submitted that to set aside the ex parte order, an application has been filed and the same is pending. In the meanwhile, the respondent has filed H.M.O.P.No.347 of 2019 seeking divorce on various false allegations before the Family Court, Cuddalore and the same is also pending for a long time. Therefore, if the said H.M.O.P.No.347 of 2019 is withdrawn from the Family Court, Cuddalore and transferred to the Family Court at Chennai or to any other Court, it will be convenient.

4. But the learned counsel appearing for the respondent, opposing the above prayer, urged this Court to dismiss the petition, on the ground that when the petitioner married the respondent, he has taken the respondent to Chennai without even having a residence and allowed the newly married wife to stay at his relative's place. The

petitioner also used to come in the midnight and used to harass the respondent, as a result, she left for her parental home. Now the respondent has filed H.M.O.P.No.347 of 2019 on the file of the Family Court, Cuddalore seeking dissolution of marriage. But the petitioner is living only in Neyveli and has wrongly sought for transfer of the case to the Family Court, Chennai, where neither the petitioner nor the respondent is residing. Hence, the prayer seeking to transfer the case to the Family Court at Chennai or any other Court is completely misconceived.

5. I also find merits on the submissions made by the learned counsel appearing for the respondent. When the petitioner is not residing in Chennai and he is staying only in Neyveli, simply on the allegation that the members of the respondent's family had attacked him and thereby gave a threat, cannot be the reason for seeking transfer of the H.M.O.P.No.347 of 2019 from the Family Court, Cuddalore to the Family Court, Chennai or to Neyveli. The reason being that the distance between Cuddalore and Neyveli is only 40 Kms. Secondly, the petitioner has not shown any evidence that on a particular date or particular month, the family members of the respondent had created any nuisance or attacked the petitioner. Therefore, finding no merits whatsoever, the transfer civil miscellaneous petition stands dismissed. Consequently, C.M.P.No.26715 of 2019 is also dismissed.

Speaking/Non speaking order

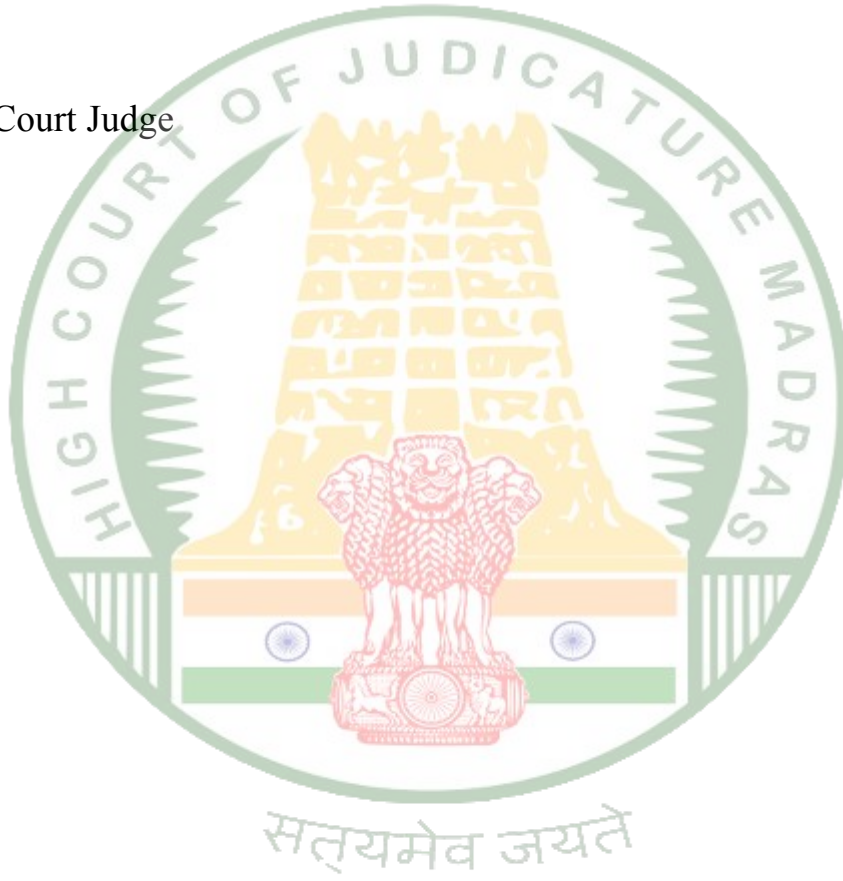
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Index : yes/no

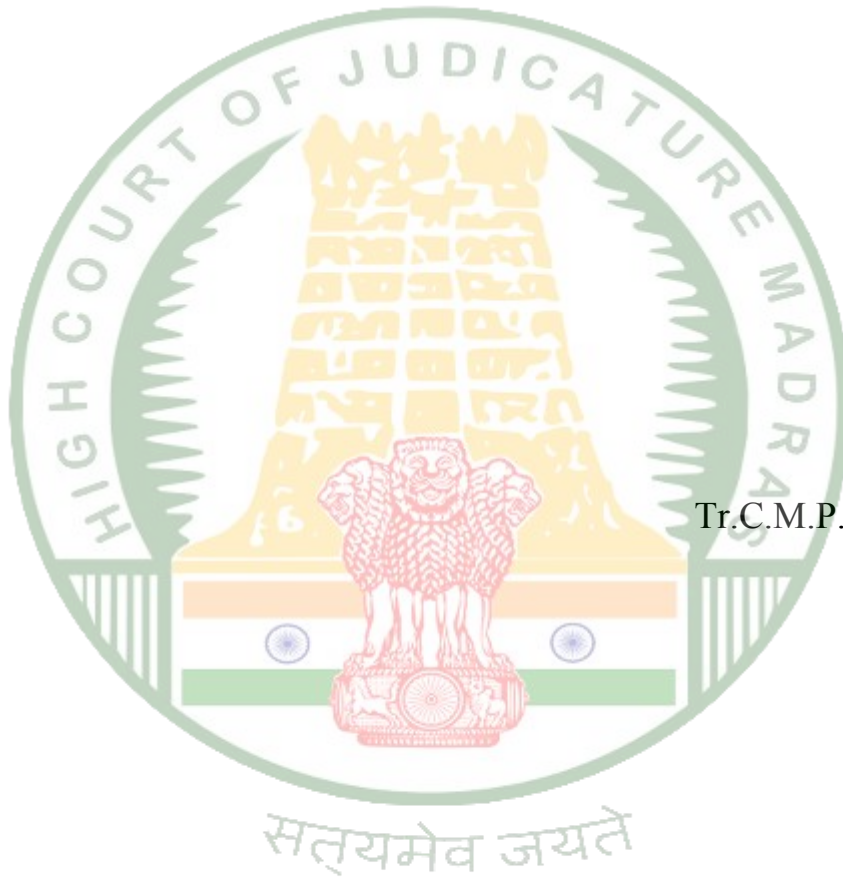
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To

1. The Family Court Judge
Cuddalore



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