

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.755 of 2019

M.Akilandeswari

..Petitioner/Petitioner

-vs-

G.Bernadshah

...Respondent/Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.196 of 2018 on the file of the Sub Court, Devakottai and transfer the same to the Family Court at Chennai.

For Petitioner :: Mrs.Rajeswari Karthikeyan

For Respondent :: Mr.S.Vasudevan

ORDER

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

2. The petitioner-Mrs.M.Akilandeswari, Wife of Mr.G.Bernadshah, the respondent herein has filed this transfer civil miscellaneous petition seeking withdrawal of the H.M.O.P.No.196 of 2018 from the file of the Sub Court, Devakottai and transfer the same to the Family Court at Chennai.

3. Mrs.Rajeswari Karthikeyan, learned counsel appearing for the petitioner submitted that after the solemnization of marriage between the petitioner and the respondent on 1.5.2017 at D.S.M.C.T. Saradambal Srinivasa Mudaliar Marriage Hall, Vellore Nagar, Vellore, a reception was also conducted on 4.5.2017 at Sri Lakshmi Sundaram Marriage Hall in Karaikudi and it is an arranged marriage. After the marriage, the petitioner and the respondent lived in the matrimonial home as a joint family. However, it is stated that the marriage between the petitioner and the respondent was not consummated for the reason best known to the respondent. Thereafter, the petitioner filed H.M.O.P.No.196 of 2018 seeking dissolution of marriage before the Sub Court, Devakottai, because, at that time, the petitioner was residing along with her parents in Karaikudi. Subsequently,

since the mother of the petitioner fell sick, for the purpose of treatment, her mother was shifted to Chennai, where the petitioner's elder brother is residing. Thereafter, the petitioner also decided to shift her residence to Chennai to stay in her elder brother's house along with their parents. With these facts, she has sought for transfer of the H.M.O.P.No.196 of 2018 from the file of the Sub Court, Devakottai to the file of the Family Court at Chennai for the convenience of both parties. It is also stated that as the respondent is also staying in Vellore, instead of going to Devakottai, he can simply come to Chennai, as Chennai is shorter in distance from Vellore in comparison with Karaikudi. In support of her prayer, the petitioner has also filed an affidavit dated 17.7.2020 stating that in the month of January 2019, her mother fell sick and since the petitioner also had no moral support, decided to shift her residence from Karaikudi to Chennai to stay with her elder brother along with her parents. Paragraph-4 of the affidavit also shows that the petitioner is residing in No.14/F1, VGP Rajesh Nagar, First Main Road, Pallikaranai, Kancheepuram District. Therefore, she has sought for transfer of the case to the Family Court, Chennai.

4. Mr.S.Vasudevan, learned counsel appearing for the respondent, heavily objecting the above prayer, stated that after the petitioner filed H.M.O.P.No.196 of 2018 before the Sub Court, Devakottai seeking dissolution of marriage, she has been taking diametrically opposite stand with her own stand taken before the Sub Court, Devakottai. When she is prepared to change or alter her stand every now and then to her whims and fancies, whether the petitioner is truly residing in Chennai or not, shall be verified. It is also stated that at the time of filing the petition for divorce, she has filed an Aadar card showing that she is staying in Chennai, therefore, she could have filed the H.M.O.P.No.196 of 2018 very well at Chennai. But she chose to file the petition before the Sub Court, Devakottai only to drag on the matter. Hence, the transfer shall be refused, he pleaded.

5. This Court, having considered the objection raised by the learned counsel for respondent, directed the petitioner to file an affidavit stating whether she is residing in Chennai with her parents, namely, father, mother and elder brother. Pursuant thereto, she has also filed an affidavit stating that she had shifted her residence from Karaikudi to Chennai and is presently residing in No.14/F1, VGP Rajesh Nagar, First Main Road, Pallikaranai, Kancheepuram District along with her elder brother and parents. Considering the affidavit filed by Mrs.M.Akilandeswari that she is currently residing in Chennai in the above address that would also be convenient for the respondent, as he can reach Chennai easily from Vellore, instead

of undertaking a long journey from Vellore to Karaikudi, this Court is inclined to accept the prayer of the petitioner. Accordingly, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.196 of 2018 is withdrawn from the file of the Sub Court, Devakottai and transferred to the Family Court, Chennai for an expeditious disposal on merits. Consequently, C.M.P.No.21159 of 2019 is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

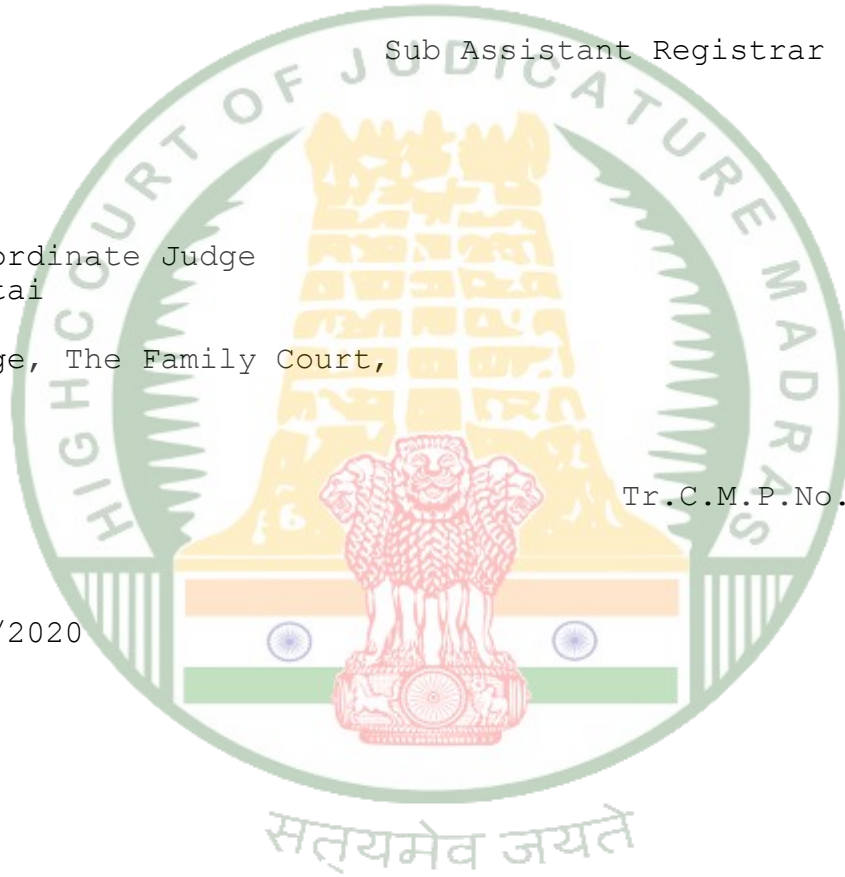
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To

- 1.The Subordinate Judge
Devakottai
- 2.The Judge, The Family Court,
Chennai

Tr.C.M.P.No.755 of 2019

GJ(CO)
KKV/18/08/2020



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