

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.772 of 2019

Mr.S.Bakiaraj

... Petitioner

-vs-

Mrs.Geethanjali
W/o Mr.S.Bakiaraj

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.228 of 2019 on the file of the learned Principal Subordinate Judge, Pudukkottai and transfer the same to the Court of the learned Family Judge at Dharmapuri.

For Petitioner :: Mr.A.Arun

For Respondent :: Mr.E.Kannadasan

ORDER

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

2. The petitioner, Mr.S.Bakiaraj, Husband of Mrs.Geethanjali has filed this transfer civil miscellaneous petition seeking withdrawal of the H.M.O.P.No.228 of 2019 from the file of the Principal Sub Court, Pudukkottai and transfer the same to the file of the Family Court at Dharmapuri.

3. Mr.A.Arun, learned counsel appearing for the petitioner submitted that after the solemnization of marriage between the parties on 9.6.2014 at Mahalakshmi Thirumana Mandapam, Pennagaram Town, as per the Hindu rites and customs, they were living together in the matrimonial home in Koothappadi Village, Dharmapuri District. But after sometime, the respondent/wife started creating some issues, based on which she refused to live in a joint family and also many times threatened to commit suicide, if a separate home is not set up. In view of the above problem, the petitioner also had taken out a house on rent initially at Erikarai Sandu and they shifted to another home at

Brahmin Street, Pennagaram at Dharmapuri District. When they were living in a separate home, again the respondent continued to create unnecessary issues and treated the petitioner with cruelty. In the meanwhile, she also deserted the petitioner on 5.2.2018 and left the matrimonial home after collecting all the jewellery and household materials and she also started living in the next street in Pennagaram. The persuasion to come and live together could not evoke any response and therefore, they are living separately. Thereafter, the respondent has filed the H.M.O.P.No.228 of 2019 on the file of the Principal Sub Court, Pudukkottai seeking divorce under Section 13(1)(ia) of the Hindu Marriage Act on the ground of cruelty. After receipt of the notice, the petitioner has been advised to come to this Court seeking transfer of the case, for the simple reason that when cause of action has not arisen at Pudukkottai, the respondent ought not to have filed the said H.M.O.P.No.228 of 2019 before the Principal Sub Court, Pudukkottai, merely on the ground that her mother is living in Pudukkottai. When the marriage had taken place only in Pennagaram Town, Dharmapuri District and they were living together in Koothappadi Village, the Principal Sub Court, Pudukkottai does not have the jurisdiction to try the issue. Moreover, both the petitioner and the respondent are working as Teachers in Dharmapuri District.

4. Mr.E.Kannadasan, learned counsel appearing for the respondent, however, on instructions, submitted that the respondent is not presently working in Dharmapuri District.

5. Since the respondent, at the time of filing the H.M.O.P.No.228 of 2019 before the Principal Sub Court, Pudukkottai, was working at Dharmapuri, this Court, accepting the submission made by the learned counsel appearing for the petitioner that the Principal Sub Court, Pudukkottai was not having the territorial jurisdiction to proceed with the matter, allows the transfer civil miscellaneous petition and the H.M.O.P.No.228 of 2019 is withdrawn from the file of the Principal Sub Court, Pudukkottai and transferred to the file of the Family Court at Dharmapuri. On receipt of the transferred case bundle, the learned Family Court Judge, Dharmapuri is directed to take up the matter and dispose of the same on merits expeditiously. Consequently, C.M.P.No.21599 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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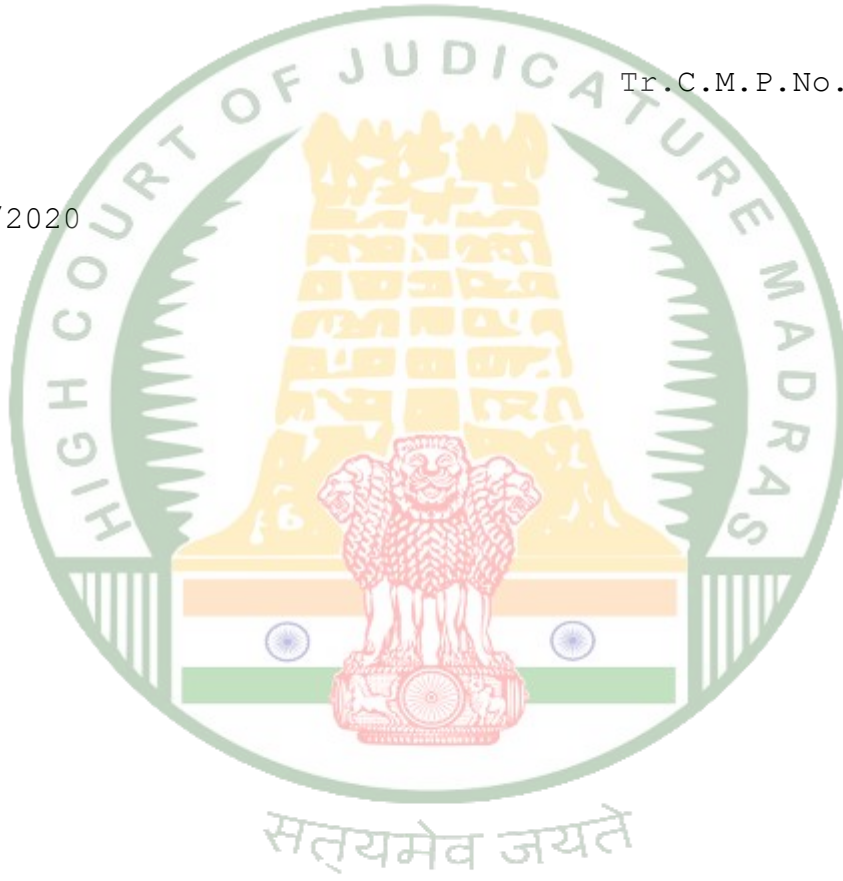
To

1. The Principal Subordinate Judge,
Pudukkottai.
2. The Family Court Judge,
Dharmapuri.

+lcc to Mr.E.Kannadasan, Advocate SR.36106

Tr.C.M.P.No.772 of 2019

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srg 09/12/2020



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