

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.840 of 2019

M.Kavitha Mary .. Petitioner

-vs-

J.Antony Jerald Joseph .. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the I.D.O.P.No.212 of 2019 on the file of the learned Principal District Judge, Tiruvallur and transfer the same to the Family Court at Chengalpattu.

For Petitioner :: Mr.K.Thenrajan

For Respondent :: Mr.P.Paul Selvam

ORDER

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

2. Mrs.M.Kavitha Mary, having married the respondent-Mr.J.Antony Jerald Joseph on 17.9.2015 as per the Christian rites and customs at the Church of Our Mother of Perpetual Help, Anjal Nagar, Madurai, was blessed with a girl child on 3.12.2016, who is aged about 3 ½ years as on date. As the petitioner is working in Infosys Software Company at Chengalpattu and is unable to attend the hearings in I.D.O.P.No.212 of 2019 on the file of the learned Principal District Judge, Tiruvallur with her daughter, which has been filed by the respondent-Husband for restitution of conjugal rights on receipt of summons in the divorce petition filed by the petitioner in I.D.O.P.No.16 of 2019 on the file of the Family Court at Chengalpattu, she has filed the present transfer civil miscellaneous petition seeking for withdrawal of the I.D.O.P.No.212 of 2019 from the file of the learned Principal District Judge, Tiruvallur and to transfer the same to the Family Court at Chengalpattu. Secondly, the petitioner had also

filed M.C.No.17 of 2018 before the Family Court at Chengalpattu seeking maintenance from the respondent in a sum of Rs.10,000/- each to herself and her daughter and also Rs.25,000/- towards the medical expenses of her daughter. But even before the mediation, the respondent has offered to pay a paltry sum of Rs.1,50,000/- towards full and final settlement and that itself indicates that the respondent is not fair and reasonable. Therefore, it was pleaded that the transfer civil miscellaneous petition may be allowed.

3. On the other hand, learned counsel appearing for the respondent submitted that the respondent is ready and willing for a re-union with the petitioner, as he is having an unlimited love and affection on her daughter. Therefore, he has moved I.D.O.P.No.212 of 2019 before the learned Principal District Judge, Tiruvallur seeking restitution of conjugal rights.

4. But this Court finds it difficult to accept the case of the respondent. The reason is that when the respondent is ready for restitution of conjugal rights, during his presence in the mediation, he should have taken back his daughter and wife. Since that has not taken place and considering the fact that the petitioner is also working in Infosys Software Company at Chengalpattu and it will be difficult to attend the hearing with her daughter, this transfer civil miscellaneous petition stands allowed as prayed for and the I.D.O.P.No.212 of 2019 is withdrawn from the file of the learned Principal District Judge, Tiruvallur and transferred to the Family Court at Chengalpattu. Since the two cases filed by the petitioner in M.C.No.17 of 2018 and in I.D.O.P.No.16 of 2019 seeking maintenance and divorce respectively, are already pending before the learned Family Court Judge, Chengalpattu and the I.D.O.P.No.212 of 2019 on the file of the learned Principal District Judge, Tiruvallur filed by the respondent for restitution of conjugal rights, has been transferred to the Family Court at Chengalpattu by this order, the learned Family Court Judge at Chengalpattu is directed to take up all the three cases for a joint trial and dispose of the same on merit, preferably within a period of six months from the date of receipt of a copy of this order. Consequently, C.M.P.No.23108 of 2019 stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

SS

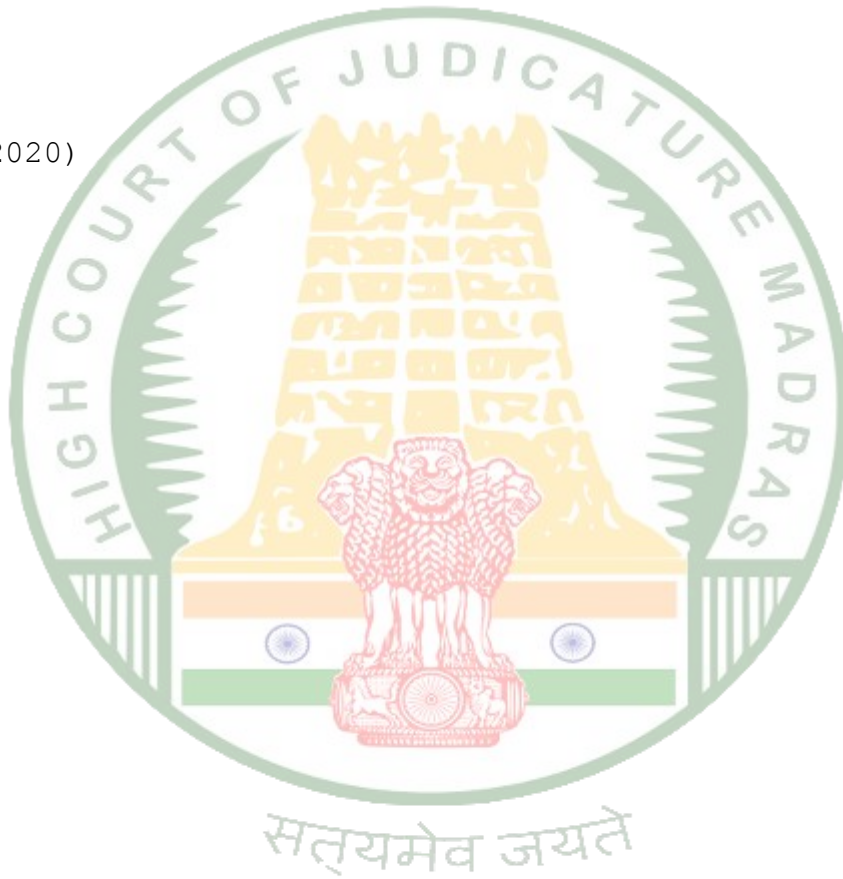
To

1. The Principal District Judge
Tiruvallur

2. The Family Court Judge
Chengalpattu

Tr.C.M.P.No.840 of 2019

MG (CO)
GS (16/09/2020)



WEB COPY