

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.07.2020
CORAM
THE HONOURABLE MR.JUSTICE T.RAJA
Tr.C.M.P.No.871 of 2019

V.Latha @ Lavanya .. Petitioner/Respondent

Versus

M.Roopkamal .. Respondent/Petitioner

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.4004 of 2019 pending on the file of learned VII Additional Family Court, Chennai, and to transfer the same to the file of learned Sub-Court, Poonamallee.

For Petitioner : Mr.Gowri Sankar
for Mr.G.Jeremiah

For Respondent : No Appearance

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.4044 of 2019 from the file of learned VII Additional Family Court, Chennai, to the file of learned Sub-Court, Poonamallee. The above said HMOP was filed by the husband seeking for restitution of conjugal rights.

3. Learned counsel for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 10.11.2014 at Kanchi Kamakotti Sarva Mangala Maha Mandapam, Ring road, Mel Thirupathi, Andhra Pradesh, followed by a wedding reception on 16.11.2014 at Chennai, as per the Hindu Rites and Customs. Out of the said wedlock, a male child was born on 09.09.2015 and he is now aged about 5 years. The respondent/husband is carrying on business of manufacturing of various spare parts for LIFT and supplying the same to various

companies. However, due to some matrimonial dispute, she left from the matrimonial home and thereafter, she has filed M.C.No.19 of 2019 on the file of learned Judicial Magistrate No.2, Poonamallee, seeking for maintenance. Subsequently, as a counter blast, the respondent/husband has filed H.M.O.P.No.4044 of 2019 on the file of learned VII Additional Family Court, Chennai, seeking for restitution of conjugal rights. It is further submitted that as the petitioner/wife is having 5 years old male child in her custody, it is not feasible for her to undertake long journey from Poonamallee to Broadway, Chennai, which is more than 30 kms., to attend each and every hearing and if she is allowed to travel, this would ultimately lead into exposure of COVID-19 not only to her but also to 5 years old male child. It is further stated that since the case filed by the wife seeking maintenance is pending before the learned Judicial Magistrate No.II, Poonamallee, he has to appear every now and then and therefore, if the case filed by the husband is transferred, it will be convenient to the husband also to attend both cases at one place.

4. No representation for the respondent/husband, that shows that he has no objection in transferring the case to the file of learned Sub-Court, Poonamallee. Therefore, this Court is inclined to transfer the case filed by the husband for the following reasons;

(i) firstly, the petitioner/wife is having 5 years old male child in her custody and therefore, if she is allowed to travel from Poonamallee to Broadway, Chennai, then, at this trying time, it would ultimately lead into exposure of COVID-19 not only to her but also to 5 years old child;

(ii) secondly, since the case filed by the wife in M.C.No.19 of 2019 seeking for maintenance is pending before the learned Judicial Magistrate No.II, Poonamallee, he has to travel to Poonamallee every now and then and therefore, if the case filed by him is transferred to Poonamallee, it will be convenient for him to conduct both the cases at one place.

5. Therefore, for the reasons stated above, H.M.O.P.No.4004 of 2019 filed by the husband is withdrawn from the file of learned VII Additional Family Court, Chennai, consequently, transferred to the file of learned Sub-Court, Poonamallee. On such transfer, learned Sub-Court, Poonamallee, shall dispose of the same 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.23976 of 2019 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

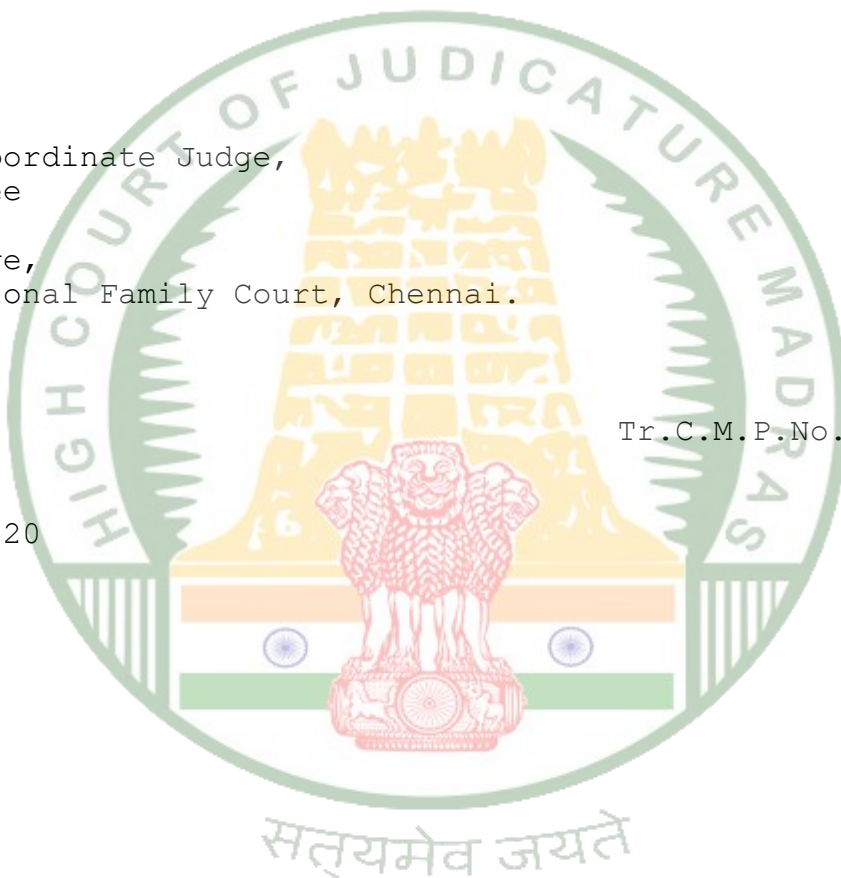
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1. The Subordinate Judge,
Poonamallee

2. The Judge,
VII Additional Family Court, Chennai.

Tr.C.M.P.No.871 of 2019

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