

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2020

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.33453 of 2019

and

Cr1.M.P.No.18434 of 2019

Sathya

...Petitioner

-Vs-

1. S.Soundara Pandiyan

2. Shanmugam

3. Govindammal Respondents

Prayer: Criminal Original Petition filed under section 407 of Criminal Procedure Code, to withdraw the petition in DVC No.1 of 2019 pending on the file of the Judicial Magistrate Court I, Tindivanam and transfer the same to Judicial Magistrate Court, Ambattur.

For Petitioner : No appearance

For Respondents: Mr.S.Anburaja

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O R D E R

This Criminal Original Petition has been filed seeking a relief to withdraw the petition filed in DVC.No.1 of 2019 pending on the file of the Judicial Magistrate No.I, Tindivanam and transfer the same to the file of the Judicial Magistrate, Ambattur.

2. Despite repeated adjournments, there was no representation for the petitioner.

3. Heard the learned counsel appearing for the respondents.

4. The petitioner is the first respondent's wife and she has filed a petition against this respondents before the Judicial Magistrate No.I, Tindivanam under the provision of Domestic Violence Act in the year 2019. Thereafter, this application has been filed by the petitioner to transfer the same to the Court of Judicial Magistrate Ambattur. On going through the affidavit filed by the petitioner in support of this petition, she has stated that when at the time of petition mentioned proceedings initiated before the Judicial Magistrate, Tindivanam, she was residing within the limits of Tindivanam. Now after leaving the matrimonial home, she has joined with her parents and residing in Mogappair East. Therefore, it is difficult for her to attend the Court proceedings at Dindivanam and therefore, it is necessary to transfer the proceedings initiated in DVC No.1 of 2019 from the file of the Judicial Magistrate No.I, Tindivanam to the file of Judicial Magistrate, Ambattur.

5. Per contra, the learned counsel appearing for the respondents 1 to 3 has submitted that the original petition which was filed by the petitioner for the relief of dissolution of marriage is pending on the file of the Subordinate Court, Tindivanam, and also the parents of the petitioner was staying in Mazhianoor, Villupuram District, which is situated near to Tindivanam. Therefore, without any bonafide reasons, this application has been filed and therefore, the application is liable to be dismissed.

6. Considering the submissions made by the learned counsel appearing for the respondent along with the submissions found in the affidavit filed by the petitioner, I do not know why the petitioner herein filed this application only for transferring the DVC proceedings from the Court of Tindivanam to Ambattur, On the other hand, if really the petitioner is aggrieved, it is also necessary for her to file another application to transfer the HMOP proceedings from the file of the Subordinate Court, Tindivanam to some other Court. Further, in order to denying the contentions of the learned counsel for the respondents, inspite of several opportunity given to the petitioner, none has appeared for the petitioner before this Court to make their submissions. More than that, along with the petition, no other reliable document has been produced to show that the petitioner herein was residing in Mogappair East.

7. Therefore, in the absence of any material and also in the absence of effective representation, this Court cannot hold

that the application has been filed only with the bonafide intention. Accordingly the petition is found to be devoid of merits and accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

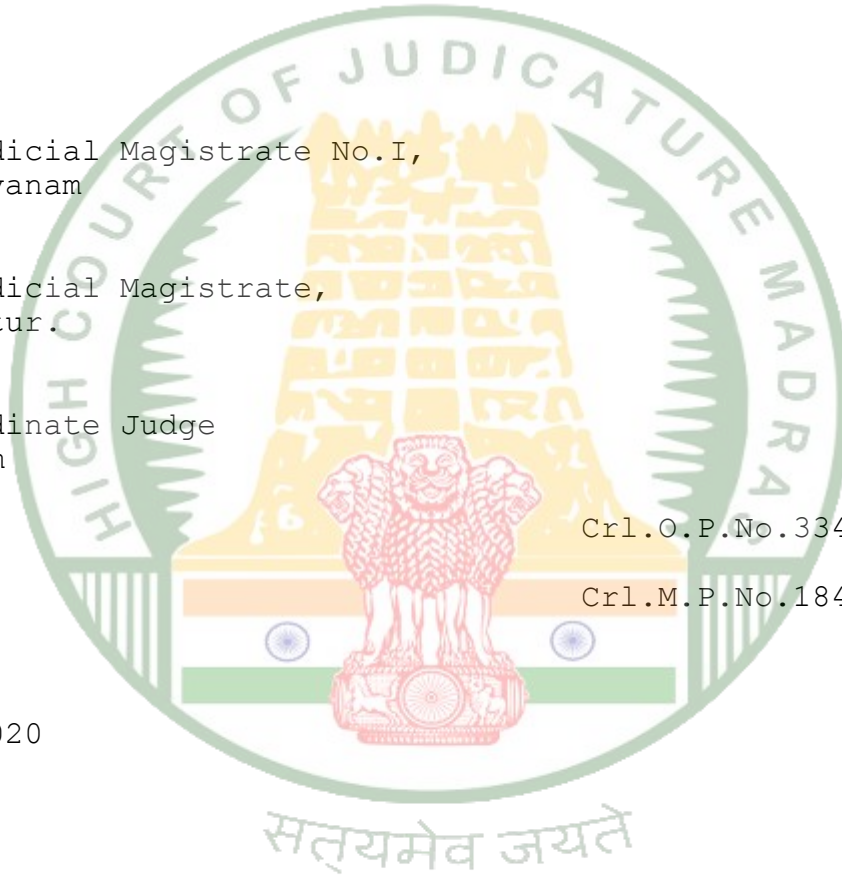
1. The Judicial Magistrate No.I,
Tindivanam

2. The Judicial Magistrate,
Ambattur.

Copy to
The Subordinate Judge
Tindivanam

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