

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.07.2020
CORAM
THE HONOURABLE MR.JUSTICE T.RAJA
Tr.C.M.P.Nos.1015 of 2019 and 217 of 2020

Tr.CMP.No.1015/2019

Madhumathi

.. Petitioner

Versus

Vengadavan

.. Respondent

Tr.CMP.No.217/2020

Vengadavan

.. Petitioner

Versus

Madhumathi

.. Respondent

Prayer in Tr.CMP.No.1015/2019: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.3864 of 2019 filed by the respondent husband under Section 13(1)(ia) and (ib) of Hindu Marriage Act, 1955, pending on the file of learned II Additional Family Court, Chennai, and transfer the same to the file of learned Sub-Court, Thiruvannamalai, where the petitioner resides.

Prayer in Tr.CMP.No.217/2020: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.27 of 2020 pending on the file of learned Principal Sub Court, Thiruvannamalai, and transfer the same to the file of learned II Additional Family Court, Chennai, to be tried along with HMOP.No.3864 of 2019.

For Petitioner in Tr.CMP.No.1015/19
& for Respondent in Tr.CMP.No.217/20

: Mr.D.Veerasekharan

For Respondent in Tr.CMP.No.1015/19
& for Petitioner in Tr.CMP.No.217/20: Mr.S.Mohan

O R D E R

Heard the parties through Video Conferencing due to COVID-19 pandemic.

2. In Tr.C.M.P.No.1015 of 2019, wife is the petitioner and husband is the respondent. Wife has filed this petition seeking to transfer H.M.OP.No.3864 of 2019 from the file of learned II Additional Family Court, Chennai, to the file of learned Sub-Court, Thiruvannamalai, where she resides. The above said HMOP was filed by the husband seeking for divorce.

3. In Tr.C.M.P.No.217 of 2020, husband is the petitioner and wife is the respondent. Husband has filed this petition seeking to transfer H.M.O.P.No.27 of 2020 from the file of learned Principal Sub Court, Thiruvannamalai, to the file of learned II Additional Family Court, Chennai, to try along with the case filed by him in H.M.P.No.3864 of 2019. The above said H.M.O.P.No.27 of 2020 was filed by the wife seeking for restitution of conjugal rights.

4. Mr.D.Veerasekharan, learned counsel for the wife submitted that the marriage between the petitioner and the respondent was solemnized on 30.10.2017 at Lakshmi Aranganathan Kalyana Mandapam, Thiruvannamalai, as per Hindu Rites and Customs. Within two months of marriage, she became pregnant and they were blessed with a male child on 26.08.2018. After the delivery, the wife is residing with her parents, however, till date, the husband has not seen his child. In the meanwhile, a notice has been received by the wife on 03.06.2019 from the husband through his lawyer to give consent for mutual divorce. Finally, the husband has filed H.M.O.P.No.3864 of 2019 on the file of learned II Additional Family Court, Chennai, seeking for divorce. Since the petitioner/wife is residing with her parents and 1 year old child, it will be difficult for her to undertake long journey from Thiruvannamalai to Chennai, which is more than 200 kms., to attend each and every hearing. Therefore, on this basis, learned counsel prayed for transferring the case filed by the husband to the file of learned Sub-Court, Thiruvannamalai.

5. It is further submitted that after the receipt of notice, the wife has also filed H.M.O.P.No.27 of 2020 before the learned Sub-Court, Thiruvannamalai, seeking for restitution of conjugal rights, for which, the husband has moved second transfer petition in Tr.C.M.P.No.217 of 2020 for transferring the same to the file of learned II Additional Family Court, Chennai, and therefore, second transfer petition filed by the

husband is liable to be dismissed considering the plight of the wife as stated above, he pleaded.

6. Opposing the above prayer, Mr.S.Mohan, learned counsel for the husband submitted that the husband has also filed CrI.OP.No.4822 of 2020 before this Court seeking to transfer DVC.No.6 of 2020 from the file of learned Additional Mahila Court, Thiruvannamalai, to the file of II Additional Family Court, Chennai, and the same is pending. If the transfer petition filed by the wife is allowed, then the criminal original petition pending before this Court would become infructuous. Secondly, the husband is facing life threat from the family members of wife and therefore, if the case filed by the husband is transferred to the file of learned Sub-Court, Thiruvannamalai, then his life would be in danger. On this basis, he prayed for transferring the case filed by the wife to Chennai, as he is also working in Chennai.

7. This Court is unable to accept the above said submission of the learned counsel for the husband. Admittedly, the wife has already moved H.M.O.P.No.27 of 2020 before the learned Sub-Court, Thiruvannamalai, seeking for restitution of conjugal rights. Therefore, considering the fact that the petitioner/wife is having one year male child with her and living at Thiruvannamalai with her aged parents, I am of the view that it will be very difficult to travel from Thiruvannamalai to Chennai, which is more than 200 kms., to attend each and every hearing, besides, if she is allowed to travel thus far, she would be at the risk of exposure to COVID-19 along with her one year male child. Hence, for the balance of convenience of both parties, H.M.O.P.No.3864 2019 filed by the husband is withdrawn from the file of learned II Additional Family Court, Chennai, and transferred to the file of learned Sub-Court, Thiruvannamalai, to be tried along with H.M.O.P.No.27 of 2020 filed by the wife. On such transfer, learned Sub-Court, Thiruvannamalai, shall dispose of both the cases together in the manner known to law as expeditiously as possible.

8. In fine, for the reasons stated above, Tr.C.M.P.No.1015 of 2019 filed by the wife is allowed and Tr.C.M.P.No.217 of 2020 filed by the husband is dismissed. Consequently, connected civil miscellaneous petitions are closed.

-s/d-

Assistant Registrar

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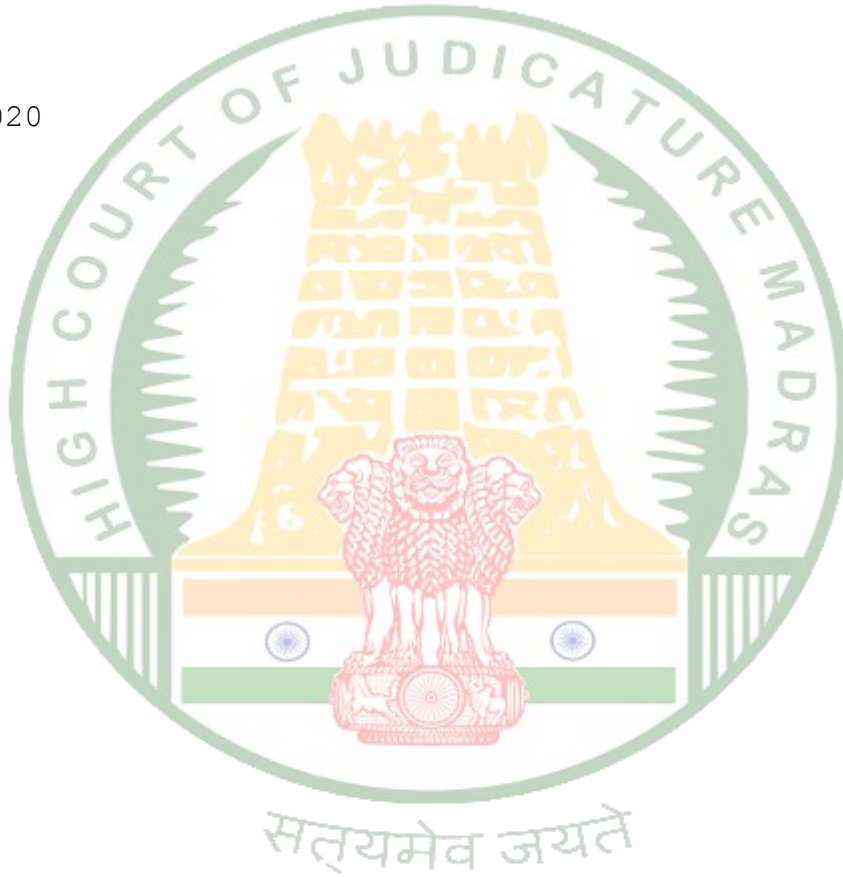
Sub-Assistant Registrar

To

1. II Additional Family Court, Chennai.
2. Sub-Court, Thiruvannamalai.

Tr.C.M.P.Nos.1015
of 2019 and 217 of 2020

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