

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

TR.CMP.No.291 of 2015 and M.P.No.1 of 2015

Lakshmi Priya Thorairaj .. Petitioner

Vs.

C.Sreedharan .. Respondent

Prayer : This Transfer Civil Miscellaneous Petition has been filed under Section 24 of C.P.C to withdraw HMOP.No.250 of 2013 on the file of the Family Court II, Coimbatore to any other Court as this Hon'ble Court may deem fit and proper in the circumstances of the case and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For the Petitioner : Mr.K.S.Karthik Raja

For the Respondent : Mr.J.Sivanandaraj for Caveator

JUDGMENT

The wife has come before this Court seeking to withdraw the divorce petition in HMOP.No.250 of 2013 filed by the respondent / husband before the Family Court, Coimbatore and transfer the same to any other Court, on the ground that the Trial Judge is hurriedly proceeding with the matter and therefore, substantial justice would not be rendered in the aforesaid case.

2. Heard Mr.K.S.Karthik Raja, learned counsel appearing for the petitioner and Mr.J.Sivanandaraj, learned counsel appearing for the respondent.

3. The learned counsel for the petitioner would draw the attention of this Court to paragraph 3 of the affidavit filed in support of the above transfer petition which reads as follows:-

" The learned family court judge is hurriedly dealing with the above HMOP which raises a reasonable suspicion that substantial justice would not be rendered in my case. The learned judge is posting the matter on day to day basis or on weekly basis unlike other old cases which are being adjourned by a longer date. It is relevant to state that when the above HMOP was posted on 22.02.2015, all the

advocates in the local bar boycotted the court. On the day the learned family court judge was pleased to adjourn all the other matters by two weeks or thereafter. But strangely in my case the matter was posted on the very next day itself, ie. on 23.02.2015. However, my counsel in the lower court with great difficulty managed to get the matter adjourned to 02.03.2015. To the contrary my application to set aside the ex-parte decree is still kept without being numbered. I am currently residing at the above stated address in Malaysia and therefore, since it is very very difficult for me to attend the hearings in the HMOP. I am being represented by my counsel and thus I am not able to effectively attend and contest the matter."

A perusal of the above would reveal that there is hardly any allegation against the learned family court judge. Proceeding with the matter, on a day to day basis that too in a matrimonial case cannot be found fault with and the same cannot be a ground for transfer, therefore, this transfer civil miscellaneous petition filed by the petitioner/wife is dismissed. Consequently connected the Miscellaneous Petition is closed.

4. Since the parties have already given evidence before the Family Court, Coimbatore and it is posted for arguments, this Court expects that the Family Court will hear the parties and dispose of the matter on or before 15.06.2015.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

adl

To
The Presiding Officer,
Family Court II, Coimbatore.

1 cc to Mr. J.Sivanandaraj, Advocate, SR.No.23220/15
1 cc to Mr. K.S.Karthik Raja, Advocate, SR.No.2313/15

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