

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23-7-2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Tr.CMP.No.610 of 2013

L.Juliet Ann D' cruz

...Petitioner

Versus

Mr.X.Aloysius Xavier Lopez

...Respondent

This petition is filed under Section 24 of C.P.C. to withdraw I.D.O.P.No.34 of 2011 pending on the file of District Court at Nagercoil and transfer the same to the file of Family Court at Chennai.

For Petitioner : Mrs.Auxillia Peter

For Respondent : Mr.A.Ganesan

ORDER

The above transfer petition has been filed by the wife to transfer I.D.O.P.No.34 of 2011 filed by the respondent/husband before the District Judge, Nagercoil on the ground that she is residing in Chennai.

2. The petitioner and the respondent got married on 30.12.2009 as per the Christian Rites and Customs at Nagercoil. Thereafter, dispute arose between them and they are living separately from 19.8.2010 onwards. I.D.O.P.No.34 of 2011 was filed before the District Court, Nagercoil by the petitioner wife on the ground of non-consummation of marriage and cruelty. The said petition is being contested by the respondent, denying the allegations made in the divorce petition. Moreover, the petitioner also filed a petition on the ground of domestic violence in M.P.No.4481 of 2012 on the file of

the XVIII Metropolitan Magistrate, Saidapet and the same is pending. An application was taken out by the respondent for medical test and the same was allowed. Aggrieved over that, CRP.No.165 of 2012 was filed before the Madurai Bench of Madras High Court and an order of interim stay was obtained and the same is pending before the Madurai Bench of this Court. At that juncture, the present petition has been filed by the wife seeking to transfer the proceedings I.D.O.P.No.34 of 2011.

3. Considering the young age of the spouse, this Court directed the parties to appear before the Court to amicably settle the matter. With the active cooperation by the learned counsel on either sides, the matter has been settled by the parties, by which they agreed to get divorce by mutual consent without pressing the allegations made against each other.

4. When the matter is called today, both the parties are present and they categorically stated that they are not interested in reunion and they want to get divorce by mutual consent.

5. A memo giving the details of compromise signed by both the parties and counter signed by their respective counsels and parents has been filed. In view of the above development, no useful purpose will be achieved by keeping I.D.O.P.No.34 of 2012 filed for divorce before the District Judge, Nagercoil and M.P.No.4481 of 2012 before the XVIII Metropolitan Magistrate, Saidapet, Chennai filed by the petitioner under Domestic Violence Act. Therefore, this Court under Article 227 of the Constitution of India suo motu withdraws I.D.O.P.No.34 of 2012 pending on the file of the District Judge, Nagercoil and grants decree of divorce by mutual consent under Section 10(A) of Indian Divorce Amendment Act 2001 dissolving the marriage between the petitioner and the respondent dated 30.12.2009 held at Nagercoil by mutual consent. Similarly this court also withdraws M.P.No.4481 of 2012 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai-600 015 and quashes the same.

6. The petitioner agreed to withdraw C.R.P.No.165 of 2012 pending on the file of Madurai Bench of Madras High Court. Even otherwise it has become infructuous in view of the grant of divorce in the main I.D.O.P.

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7. The transfer petition is disposed of in the above terms. No costs. Consequently the connected M.P.No.1 of 2013 is closed. The memo of compromise shall form part of the order. No costs.

Encl: The Xerox Copy of the Memo of Compromise.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vk

To

1.The District Court,
Nagercoil.

2.The XVIII Metropolitan Magistrate,
Saidapet, Chennai-15.

3.-Do- Through The Chief Metropolitan Magistrate,
Egmore, Chennai - 8.

4.The Presiding Officer,
Family Court,
Chennai.

2 CCs to Mrs.Auxillia Peter, Advocate SR.No. 38157

2 CCs to Mr.A.Ganesan, Advocate SR.No. 38000

Tr.CMP.No.610 of 2013

VG(CO)
PSI (05.08.2015)

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