

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

Tr.C.M.P.No.215 of 2016

&

C.M.P.No.6190 of 2016

Dhanalakshmi ... Petitioner/ Respondent

vs.

Manivannan ... Respondent/ Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw H.M.O.P No.106 of 2015 on the file of Subordinate Judge, Chidambaram and transfer it to the file of Family Court, Chennai or any other Court at Chennai for disposal of the petition filed by the respondent for dissolution of marriage dated 17.01.2013 in accordance with law.

For Petitioner : Mr.B.Gurumurthy

ORDER

This Transfer Civil Miscellaneous Petition has been filed for withdrawal of H.M.O.P.No.106 of 2015 pending on the file of the Subordinate Judge, Chidambaram and to transfer the same to the file of the Family Court, Chennai or any other Court at Chennai for disposal in accordance with law.

2. The above said H.M.O.P was filed by the respondent herein/husband for dissolution of marriage by a decree of divorce. Citing inconvenience to the petitioner herein as the sole ground, the petitioner has sought the transfer of the said H.M.O.P from Chidambaram to Chennai.

3. This matter stands listed today for admission. The submissions made by the learned counsel for the petitioner are heard. Records are also perused.

4. Of course, the inconvenience caused to the wife shall be a valid ground for seeking transfer of the H.M.O.P to a Court having jurisdiction over the place wherein she resides. But the same cannot be allowed to be abused. The bonafide of the

petition should also be a factor to be considered by the Court while dealing with the petition for transfer. In the present case, before the filing of the H.M.O.P, the petitioner in the transfer civil miscellaneous petition (wife) preferred a complaint on the file of All Women Police Station, Kumbakonam on 27.07.2015. In the said complaint, her address was furnished as 6/132, Vadakku Veedhi, Nachiyarkovil. The respondent herein/husband was said to be residing at Manalur Village, Lalpuram, Chidamparam. Thereafter, the respondent herein/husband filed the H.M.O.P in October 2015 for divorce. The address furnished in the complaint of the petitioner in the Transfer Civil Miscellaneous Petition coincides with her address furnished in the H.M.O.P. Admittedly, notice was served on the petitioner herein in the above said address of her, namely 6/132, Vadakku Veedhi, Nachiyarkovil.

5. It seems the petitioner has chosen to furnish an address in Chennai, only for the purpose of seeking a transfer of the H.M.O.P to a Court in Chennai. If a respondent, who is the wife, is allowed to change her residence after the filing of the H.M.O.P and seek transfer, the benevolent provision in Section 19 (iii-a) of the Hindu Marriage Act will be complied in more abuse than in bonafide cases. For the said reasons, this Court comes to the conclusion that the Transfer Civil Miscellaneous Petition deserves to be dismissed at the stage of admission itself.

Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

gpa

To

The Subordinate Judge
Chidambaram

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C.M.P.No.6190 of 2016

GJ II(CO)
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