

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.12.2016

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.714 of 2016

and C.M.P.No.18588 of 2016

Nathiya ... Petitioner

vs.

Sridhar ... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the HMOP No.43 of 2015 pending on the file of the Sub Court, Attur and to transfer the same to the Sub Court, Perambalur to be tried jointly along with HMOP No.54 of 2015 pending on the file of the Sub Court, Perambalur.

For Petitioner : Ms.V.Pushpalatha

For Respondent : Mr.V.Venkadasalam

ORDER

The petitioner/wife has filed this petition seeking to withdraw the HMOP No.43 of 2015 pending on the file of the Sub Court, Attur and to transfer the same to the Sub Court, Perambalur to be tried jointly along with HMOP No.54 of 2015.

2. The case of the petitioner is as follows:

The respondent/husband has filed HMOP No.43 of 2015 under Section 13(i)(ia) of the Hindu Marriage Act, 1955 seeking divorce before the Sub Court, Attur on the ground of cruelty. Whereas the petitioner/wife has filed HMOP No.54 of 2015 under Section 9 of the Act, seeking restitution of conjugal rights, before the Sub Court, Perambalur. Since both the petitions are inter-connected to avoid multiplicity of proceedings, the above petition has been filed seeking transfer.

3. The respondent/husband has filed his counter. It is stated that in the petition filed by him seeking divorce, the petitioner/wife did not appear before the Sub Court, Attur and allowed the proceedings to go on ex parte. Thereafter, she again filed an application to set aside the ex parte order. Even

after that, she was not ready for enquiry and the matter is posted for arguments. Only at that stage, she has filed the above petition seeking transfer of HMOP No.43 of 2015 from the file of Sub Court, Attur to the Sub Court, Perambalur to be tried along with the petition filed by her in HMOP No.54 of 2015 and had also obtained stay, in order to delay the proceedings further.

4. Heard both sides.

5. On a perusal of the records, it is seen that the petitioner/wife has deliberately waited for passing of an ex parte order in the petition filed by the respondent/husband seeking divorce and thereafter filed an application to set aside the same. Further, as a second thought, she has filed the present petition seeking transfer of the petition filed by the respondent/husband before the Sub Court, to be tried along with the petition filed by her, before the Sub Court, Perambalur, for restitution of conjugal rights and that too, when the matter is posted for arguments. Further it is also to be noted that the residence of the petitioner, who is living in Ulipuram village is closer to Sub Court, Attur, which is only 28 kms whereas the Sub Court, Perambalur is very far off, so to say, about 80 kms.

6. From the above facts, the conduct of the petitioner/wife is very clear and her intention in seeking transfer has no bona fide. As stated earlier, even in terms of the distance, the Sub Court, Attur is nearer to her place of residence than the Sub Court at Perambalur. In view of the same, I do not find any merit in this petition. Accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CCC)

/true copy/ सत्यमेव जयते

Sub Asst. Registrar

To

1. The Sub Judge, Attur
2. The Sub Judge, Perambalur

+2 cc's to M/s.v.Pushpalatha,advocate,sr.74395

+1 cc to M/s.V.Venkadasalam,advocate,sr.74521.

mp(co)

krd 12/1

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