

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Tr.C.M.P.No.95 of 2016

&

C.M.P.No.2065 of 2016

Tmt.Dev.R.Evelin

... Petitioner

vs.

S.Alwin Manuel

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw I.D.O.P.No.26/2012 pending on the file of Principal District Court, Thiruvallur and transfer the same to the file of Principal District Court, Nagercoil for a joint trial along with I.D.O.P.No.503/2015, by allowing the present Transfer Civil Miscellaneous petition.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents: Mr.S.Kingston Jerold

ORDER

This Transfer Civil Miscellaneous Petition has been filed for withdrawal of I.D.O.P.No.26/2012 pending on the file of Principal District Court, Thiruvallur and transfer the same to the file of Principal District Court, Nagercoil for a joint trial along with I.D.O.P.No.503/2015.

2. Respondent/husband has moved I.D.O.P.No.26/2012 on the file of Principal District Court, Tiruvallur for divorce. The petitioner/wife has moved I.D.O.P.No.503/2015 on the file of Principal District Court, Nagercoil for restitution of conjugal rights. Petitioner/wife seeking transfer of the divorce petition filed by the husband to the Court in case in I.D.O.P.No.26/2012, on the file of Principal District Court, Tiruvallur to be jointly tried with the action for restoration of conjugal rights moved by the petitioner/wife in I.D.O.P.No.503/2015, Principal District Court, Nagercoil.

3. Heard learned counsel for petitioner and learned counsel for respondent.

4. Learned counsel for petitioner submitted that the petitioner faces difficulty in traveling a distance of 700 kms to Chennai towards attending the Court at Tiruvallur. She is wholly dependent on her parents and is unable to afford travel. The respondent/husband is in any event attending the case for restoration of conjugal rights at Nagercoil. As the issue involves matrimonial dispute, it would be desirable that both cases be tried jointly by one and the same Court.

5. Learned counsel for the respondent/husband submits that the respondent is taking care of both children and if transfer is ordered the same would cause him difficulty in that he would have to appear at every hearing.

6. Considering the rival submissions, this Court of the view that interest of justice would be met by transferring the case filed by the husband/respondent in I.D.O.P.No.26/2012 on the file of Principal District Court, Tiruvallur to the case filed by the petitioner/wife in I.D.O.P.No.503/2015 on the file of Principal District Court, Nagercoil.

7. Accordingly, this petition is allowed and the I.D.O.P.No.26/2012 on the file of Principal District Court, Tiruvallur is transferred to the file of Principal District Court, Nagercoil to be tried jointly with I.D.O.P.No.503/2015 pending on the file of Principal District Court, Nagercoil. The court below is directed to not to insist on the appearance of the respondent/husband before it except on the important hearing dates. Connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Principal District Judge, Tiruvallur.

2.The Principal District Judge, Nagercoil.

+ 1 cc to Mr.P.M. Duraiswamy, Advocate SR.30240

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CA(CO)

Eu 5.7.16