

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.No.663 of 2016

and

C.M.P.No.17410 of 2016

Irusammal

... Petitioner

Vs.

M.Damodaran

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code praying to withdraw and transfer H.M.O.P.No.57 of 2013 pending on the file of the Principal Sub-Court, Villupuram to the file of the First Additional Family Court, Chennai, for disposal in accordance with law.

For petitioner : Mr.J.Saravana Vel

For respondent : Mr.H.Rajesh

ORDER

In a matrimonial dispute between the petitioner and the respondent, the respondent-husband has filed H.M.O.P.No.57 of 2013 before the Principal Sub-Court, Villupuram, seeking divorce. The respondent is working as Driver in the Metropolitan Transport Corporation, Chennai. It is stated that the petitioner-wife is residing in Chennai in her brother's house. Earlier, she has filed a petition claiming maintenance for herself and her sons from the respondent-husband in M.C.No.200 of 2013 before the First Additional Family Court, Chennai. She also filed Tr.C.M.P.No.483 of 2013 before this Court to transfer H.M.O.P.No.57 of 2013 from Villupuram to Chennai for hearing where M.C.No.200 of 2013 was pending. The said Tr.C.M.P. was dismissed as withdrawn by this Court on 24.06.2014 and the said M.C. was also withdrawn and both of them joined and were living together.

2. Subsequently, CrI.O.P.No.11326 of 2013 filed by the respondent-husband before this Court to quash M.C.No.200 of 2013, was withdrawn by him on 01.10.2015. He also ought to have

withdrawn the said H.M.O.P.No.57 of 2013. She was under the wrong notion that it was withdrawn. Ultimately, she was set ex-parte for not filing counter in the said H.M.O.P. The respondent-husband did not change his attitude and said to have tortured the petitioner-wife, driving her to go to her parents house/brother's house and even after the birth of the second son, she was not taken back to the matrimonial home. It is further alleged that the husband was not ready to rejoin. There was complaint and counter-complaint between the parties before the Police Station. She is taking care of the two sons with meagre salary of her parents/brother. Thereafter, the petitioner filed M.C.No.159 of 2016 before the First Additional Family Court, Chennai for maintenance, which is pending. She is finding it difficult to travel to Villupuram with her toddlers (two sons) for each and every hearing of the case filed by the respondent-husband in H.M.O.P.No.57 of 2013. It is stated that the respondent-husband is appearing for the case filed by her in Chennai in M.C.No.159 of 2016. Hence, the petitioner is seeking transfer of the said H.M.O.P to Chennai, for being tried along with M.C.No.159 of 2016.

3. Taking into consideration the above grievances of the petitioner and also taking into account the fact that she is having two sons and finding it difficult to travel from Chennai to Villupuram, as she is now living with her brother with less income who is an Auto Driver, the Tr.C.M.P. is allowed and H.M.O.P.No.57 of 2013 pending on the file of Principal Sub-Court, Villupuram shall stand transferred to the file of the First Additional Family Court, Chennai, to be tried along with M.C.No.159 of 2016 filed by her. No costs. C.M.P. is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cs

Copy to

1. The Principal Sub-Judge, Villupuram.
2. The First Additional Judge, Family Court, Chennai.

+1cc to Mr.J. Saravanavel, Advocate, S.R.No.8085

+1cc to Mr.H. Rajesh, Advocate, S.R.No.8223

rsk(CO)

md(22/02/2017)

Tr.C.M.P.No.663 of 2016