

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.698 of 2017

and

C.M.P.Nos.14005 and 15707 of 2017

D.Deivamani

... Petitioner

Vs.

K.Manimaran

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.2528 of 2017 pending on the file of the II Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Devakottai.

For Petitioner : Mr.S.P.Harikrishnan
for M/s.K.M.Vijayan Associates

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.2528 of 2017 pending on the file of the II Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Devakottai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 09.09.2002 as per Hindu rites and customs and were residing in the matrimonial home at Karaikudi. In the wedlock, two female children were born on 03.01.2005 and 23.12.2006. The petitioner is working in Alagappa Government Arts College, Department of Physics, Karaikudi. Both the petitioner and respondent along with their two children are residing in Quarters allotted by the employer of the respondent as he is a Scientist in Central Electro Chemical Research Institute. The daughters are studying in VIII Standard and VI Standard at Kendra Vidyalaya, Karaikudi. The respondent by fabricating false documents has filed H.M.O.P.No.2528 of 2017 on the file of the II Additional Family Court, Chennai, against the petitioner for dissolution of

marriage.

3. According to the petitioner, no cause of action has arisen for filing H.M.O.P within the jurisdiction of Court at Chennai. The respondent has filed the said H.M.O.P, making false allegations against the petitioner. The petitioner is working in Karaikudi. The distance between Karaikudi and Chennai is about 418 Kms and it will be very difficult for her to travel such a long distance to attend the Court proceedings at Chennai leaving two minor daughter in the quarters or in the custody of others.

4. The respondent has filed counter affidavit along with C.M.P.No.15707 of 2017 filed to vacate the interim stay granted by this Court on 22.08.2017 in C.M.P.No.14005 of 2017. In the counter affidavit, the respondent has stated that the petitioner left the matrimonial home in spite of the respondent condoned her illegal act. The petitioner is threatening the respondent through phone call. The petitioner is not doing her duties as wife and has not properly maintained the respondent and children. She has illicit relationship with somebody. The petitioner and her parents threatened the respondent on 28.08.2017 in this Court campus. For the above reason the respondent prayed for dismissal of the Transfer Civil Miscellaneous Petition.

5. Heard the learned counsel for the petitioner and perused the materials available on record. When the Transfer Civil Miscellaneous Petition is taken up for hearing on 28.04.2018, there was no representation for the respondent/husband. Hence, the Transfer Civil Miscellaneous Petition is posted today for hearing. Today also, there is no representation for the respondent.

6. Both the petitioner and respondent are making allegations against each other and made averments in the affidavit, counter affidavit on merits with regard to H.M.O.P.No.2528 of 2017. The relevant fact to be considered in the present Transfer Civil Miscellaneous Petition is that both the petitioner and respondent are working in Karaikudi and residing in the quarters at Karaikudi allotted to the respondent by his employer. Two minor daughters aged about 13 and 12 are staying in Karaikudi and studying in Standards VIII and VI in Kendriya Vidyalaya, Karaikudi. These averments made by the petitioner in the present Transfer Civil Miscellaneous Petition are not denied by the respondent in the counter affidavit filed in support of the C.M.P.No.15707 of 2017. The petitioner has filed copies of appointment order of the respondent, Service Certificate of petitioner, Family Card and Aadhaar Card of the respondent. All these documents would show that both the petitioner and respondent are residing only at Karaikudi.

7. In view of the above facts, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.2528 of 2017 is ordered to be withdrawn from the file of the II Additional Family Court, Chennai and transferred to the file of the Sub Court, Devakottai. The learned II Additional Family Judge, Chennai, is directed to transmit all the records pertaining to H.M.O.P.No.2528 of 2017 to the file of the Sub Court, Devakottai, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The II Additional Judge, Family Court, Chennai.

2. The Subordinate Judge, Devakottai.

+1cc to Mr.K.M.VIJAYAN ASSO. Advocate, S.R.No.34568

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NA (CO)

TR(20/06/2018)

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