

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. Nos.726 of 2017 & 284 of 2018
and C.M.P.Nos.14824 of 2017 & 7186 of 2018

S.Alamelu ... Petitioner in both Tr.CMPs

Vs.

M.Sivasubramanian ... Respondent in both Tr.CMPs

Prayer in Tr.CMP No.726 of 2017 : Petition has been filed under Section 24 of C.P.C., to withdraw HMOP No.630 of 2016 pending on the file of Family Court, Madurai and transfer it to the file of Family Court at Chennai.

Prayer in Tr.CMP No.284 of 2018 : Petition has been filed under Section 24 of C.P.C., to withdraw HMOP No.488 of 2017 pending on the file of Family Court, Madurai and transfer it to the file of Family Court at Chennai.

In both Tr.CMPs.

For Petitioner : Ms.S.Nandhini Devi
for Mr.R.Subramanian

For Respondent : Mr.G.Karthikeyan

COMMON ORDER

These petitions are filed to withdraw the proceedings pending before the Family Court, Madurai in HMOP Nos.630 of 2016 and 488 of 2017 and transfer the same to the Family Court at Chennai.

2. Parties and the issues involved in both the Transfer Civil Miscellaneous Petitions are one and the same and therefore, they are disposed of by this common order.

3. The petitioner is the wife and respondent is the husband in both the Tr.CMPs. The marriage between the petitioner and respondent was conducted on 22.11.2015 at Sub-Registrar's office, Singampunari. It was a second marriage for both the petitioner and the respondent. The petitioner was a divorcee at

the time of marriage. After the death of his first wife, the respondent married the petitioner and he is having a female child born to the first wife. Due to difference of opinion, both of them are living separately. The petitioner filed HMOP No.630 of 2016 before Family Court, Madurai for restitution of conjugal rights.

4. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that the petitioner has also filed Tr.CMP No.284 of 2018 to withdraw and transfer HMOP No.488 of 2017 filed by the respondent for divorce, pending on the file of Family Court, Madurai to the file of Family Court, Chennai. It is further submitted that notice has been served on the respondent in the said Transfer CMP and hence both the matters may be taken up together for hearing.

5. According to the petitioner, after the desertion of the respondent, she was waiting for him to return to the matrimonial house. Further, she unable to pay the rent and maintain herself at Madurai. While so, her father fell ill and since she does not have any relatives at Madurai, she had come to Chennai in January 2017 to look after his father and she is now living alongwith her parents. Hence, it is very difficult for her to travel from Chennai to Madurai to appear before the Family Court, Madurai for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.Ps. for transfer of H.M.O.P.Nos.630 of 2016 filed by the petitioner and HMOP No.488 of 2017 filed by the respondent, from the file of the Family Court, Madurai to the file of Family Court at Chennai.

6. The contention of the learned counsel for the respondent is that he has a minor girl child aged about 17 years and it will be very difficult for him to leave the child alone at Madurai to attend each and every hearing before Family Court, Chennai. He further submitted that the respondent has no objection in transferring the cases in HMOP Nos.630 of 2016 & 488 of 2017, pending on the file of Family Court, Madurai being transferred to Family Court, Chennai provided that his appearance may be dispensed with for the time being and prayed for speedy disposal of the cases. He also made an endorsement to that effect.

7. Recording the submission and endorsement made by the learned counsel for the respondent, without deciding the issue on merits, the petitions in H.M.O.P.No.630 of 2016 and 488 of 2017 are ordered to be withdrawn from the file of Family Court, Madurai and transferred to the file of II Additional Family Court, Chennai. The Presiding Officer, Family Court, Madurai is directed to transmit all the records pertaining to

H.M.O.P.Nos.630 of 2016 and 488 of 2017 to the file of the II Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the records, the learned II Additional Judge, Family Court, Chennai is directed to dispose of the cases, as expeditiously as possible, in any event, not later than six months from the date of receipt of copy of this order.

8. Considering the submissions of the learned counsel for the respondent, the appearance of the respondent is dispensed with. The respondent is permitted to engage an Advocate and represent through him. He is directed to appear before the Court at the time of trial and as and when directed by the learned Judge.

9. Accordingly, both the Transfer Civil Miscellaneous petitions are ordered. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rgr

To

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

2.The Family Court,
Madurai.

+1cc to Mr.G.Karthikeyan, Advocate sr.no.28520
+2cc to Mr.R.Subramanian, Advocate sr.no.28641

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and C.M.P.Nos.14824 of 2017 & 7186 of 2018

mr(co)
nr 09/05/2018