

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2018

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

Tr.CMP.No.831 of 2017
and CMP.No.17417 of 2017

Mrs.Vijayarani

... Petitioner

Versus

Mr.V.Chandrakumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw O.S.No.164 of 2014 from the file of I Additional Family Court, Chennai and transfer the same to the file of Family Court, Madurai.

For Petitioner : Mr.S.Kumara Devan

For Respondent : Mr.S.S.Swaminathan

O R D E R

This Transfer Civil Miscellaneous Petition is filed by the wife/petitioner herein seeking transfer of O.S.No.164 of 2014 from the file of I Additional Family Court, Chennai to the file of Family Court, Madurai.

2. O.S.No.164 of 2014 is filed by the husband/respondent herein to declare the three settlement deeds which were fraudulently obtained from him in respect of the property described in the suit schedule as null and void. H.M.O.P.No.2792 of 2015 on the file of Family Court, Madurai, has also filed by the husband seeking divorce on the ground of nullity. The petitioner, in paragraph 11 of the affidavit filed in support of this petition has expressed her apprehension of danger to life if the case is prosecuted before the I Additional Family Court, Chennai and therefore she seeks transfer of O.S.No.164 of 2014 from the file of I Additional family Court, Chennai to Family Court, Madurai.

3. In paragraph 8 of the counter affidavit filed in support of this petition, it is stated that the respondent came to know of the first marriage of the petitioner only at the time of trial of M.C.No.9 of 2017 and thereafter only he filed a petition seeking divorce.

5. Be that as it may, the parties in the suit as well as in the transfer petition are one and the same. The suit in O.S.No.164 of 2014 on the file of I Additional Family Court, Chennai is only a offshoot of the divorce proceedings.

6. It is the case of the husband/respondent that the three settlement deeds were fraudulently obtained from him in respect of the property described in the suit schedule and according to the respondent they were obtained by coercion and therefore, the suit is filed for declaring the same as null and void.

7. Admittedly, the controversy in both the suit as well as the O.P is the marriage between the petitioner and the respondent dated 22.02.2013. In order to avoid any conflicting decisions, it would be appropriate to transfer the suit also to the Family Court, Madurai, as the H.M.O.P.No.2792 of 2014 filed by the respondent/husband for divorce is pending in Madurai. Therefore, there will not be any difficulty to the respondent if the suit also in O.S.No.164 of 2014 is transferred to Madurai.

8. In view of the same, the Transfer Civil Miscellaneous Petition is allowed and O.S.No.164 of 2014 pending on the file of the I Additional Family Court, Chennai, is withdrawn and transferred to the file of the Family Court, Madurai. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

raja
To

1. The I Additional Family Court,
Chennai.

2. The Family Court,
Madurai.

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.49

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.58

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(CO)
abr(03/02/18)