

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.381 of 2018
and C.M.P.No.10165 of 2018

E.Rajesh

... Petitioner

Vs.

P.Sangeetha

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw the petition for nullity of marriage in M.O.P.No.100 of 2017 pending on the file of Principal Sub Court, Cuddalore and transfer the same to the file of Family Court, Pondicherry.

(Prayer amended as per order dated 16.07.2018 made in C.M.P.No.11861 of 2018 in Tr.C.M.P.No.381 of 2018)

For Petitioner : Mr.R.Sreedhar
For Respondent : Mr.S.Manivasagam

O R D E R

This petition is filed to withdraw the petition for nullity of marriage in M.O.P.No.100 of 2017 pending on the file of Principal Sub Court, Cuddalore and transfer the same to the file of Family Court, Pondicherry.

2.The petitioner is the husband and respondent is the wife. The marriage between the petitioner and respondent was conducted on 27.08.2010 as per Hindu rites and customs. The petitioner filed H.M.O.P.No.206 of 2016 before Family Court, Pondicherry, for nullity of marriage, against the respondent. The respondent filed Tr.C.M.P.No.490 of 2016 before this Court for transfer of said H.M.O.P.No.206 of 2016 pending on the file of Family Court, Pondicherry, to the file of Family Court, Cuddalore. This Court by order dated 18.10.2016 allowed the Transfer Petition with liberty to the petitioner to seek re-transfer, if there is any attempt on the part of the respondent to attack the petitioner and cause bodily injury to him. Now the petitioner/husband has come out with the present Transfer Petition alleging that respondent's brothers by name, Manikandan, Sabarinathan and Ramesh are abusing the petitioner on each date of hearing before the Court at Cuddalore and on 11.03.2018, the petitioner and his brother were assaulted by the respondent's brothers. Both the petitioner and his brother lodged a complaint and C.S.R.Nos.111 and 117 of 2018 were given by Cuddalore O.T. Police Station. The petitioner's brother was admitted in the hospital on 11.03.2018

and discharged on 12.03.2018. The petitioner took treatment on 11.03.2018 as out-patient. In the circumstances, the petitioner has come out with the present Transfer Petition to transfer M.O.P.No.100 of 2017 pending on the file of Principal Sub Court, Cuddalore, to the file of the Family Court, Pondicherry.

3.Though the learned counsel for the respondent on 04.07.2018 denied all the allegations made by the petitioner and submitted that allegations are imaginary, no such incident took place, petitioner has given false complaint and took time for filing counter, when the matter was taken up for hearing on 11.07.2018, there was no representation on behalf of the respondent and the matter was directed to be posted today. Today also, there is no representation on behalf of the respondent.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.Earlier this Court transferred H.M.O.P.No.206 of 2016 filed by the petitioner from Family Court, Pondicherry, to Family Court, Cuddalore. From the order of this Court, it is seen that at that time itself, the petitioner alleged life threat by the respondent's family members. This Court has given liberty to the petitioner to approach this Court for re-transfer, in case, any attempt made by the respondent's family to assault him. Now the petitioner has stated that the petitioner and his brother were abused and assaulted by the respondent's family members on 11.03.2018 and 12.03.2018. To substantiate such averments, he has produced copies of C.S.Rs. issued by Cuddalore O.T. Police Station.

6.Considering the materials available on record and also the residence of the petitioner is at Cuddalore, it is a fit case to order re-transfer. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in M.O.P.No.100 of 2017 is ordered to be withdrawn from the file of Principal Sub Court, Cuddalore and transferred to the file of Principal Sub Court, Tindivanam. The learned Principal Subordinate Judge, Cuddalore, is directed to transmit all the records pertaining to M.O.P.No.100 of 2017 to the file of the Principal Sub Court, Tindivanam, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Principal Subordinate Judge, Tindivanam.

2.The Principal Subordinate Judge, Cuddalore.

+1 CC to Mr.R.Sreedhar, Advocate sr 46527.

Tr.C.M.P. No.381 of 2018
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KGK (CO)
SP (09/08/2018)



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