

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :20.09.2018

PRONOUNCED ON:25.09.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.178 of 2018
and
C.M.P.No.4831 of 2018

A.Revathi

...Petitioner

Vs.

R.Jagadeesan

...Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the O.P.No.4624 of 2017 from the file of the I Additional Family Court, Chennai and transfer the same to the file of the District Munsif, Tambaram and try along with O.S.No.50 of 2016.

For Petitioner : Mr.A.Arulmozhi

For Respondent : No appearance
set exparte
vide order dated 20.09.2018.

O R D E R

The petitioner has laid the Transfer Civil Miscellaneous Petition seeking to withdraw the O.P.No.4624 of 2017 from the file of the I Additional Family Court, Chennai and transfer the same to the file of the District Munsif Court, Tambaram for joint trial along with O.S.No.50 of 2016 preferred by her.

2. Now according to the petitioner, the respondent taking advantage of the intimacy developed between them, she being the neighbour of the respondent, it is stated that the respondent took her to the Sub Registrar office, Royapuram and directed her to subscribe her signatures to the Registration of Marriage with him as if the marriage between them was solemnized on 12.09.2012 at No.77-A, Nethaji Nagar, Dandayarpuram, Chennai- 81, by giving false promises and accordingly, obtained her signatures and got the certificate for

registration of marriage, but according to the petitioner, no marriage at all was solemnized between her and the respondent.

3. Accordingly, it is the case of the petitioner that inasmuch as the respondent on the promise that a legal relationship of husband and wife is subsisting between him and the petitioner, started creating problems to the petitioner and her family members based on the alleged marriage as abovenoted. It is stated that she had therefore laid O.S.No.50 of 2016 against the respondent and another on the file of the District Munsif Court, Tamabaram for a declaration that no marriage took place between her and the respondent anywhere and at any point of time at No.77, Nethaji Nagar, Dandaiyarpur, Chennai on 12.09.2012 and there is no subsisting legal relationship of husband and wife between the petitioner and the respondent and for other allied reliefs. Now, according to the petitioner, based on the alleged marriage between the petitioner and the respondent, seeking restitution of conjugal rights, the respondent has levied O.P.No.4624 of 2017 against her, which is pending on the file of the I Additional Family Court, Chennai and accordingly, putting forth that inasmuch as the issues involved between the parties in the abovesaid O.P. Proceeding and the suit laid by her are one and the same, touching upon the aspects of the alleged marriage between the parties as sought to be projected either of them, accordingly, prayed for the joint trial of both the proceeding by one and the same Court and accordingly, has come forward with the present petition seeking transfer of the O.P. Proceeding from Chennai Court to Tambaram Court for joint trial along with O.S.No.50 of 2016. In this matter, the respondent has not chosen to resist the transfer request of the petitioner and accordingly, he having been called, remaining absent, though had been served, been set exparte.

4. As rightly putforth by the petitioner, considering the issues involved between the parties in the suit proceeding laid by the petitioner against the respondent and O.P proceeding laid by the respondent against the petitioner, are almost touching upon each other and identical and in such view of the matter, the joint trial of the proceeding by one and the same Court would be beneficial to both the parties as the parties would be required to adduce the same evidence in both the proceedings one way or the other and the joint trial and the determination of the two proceedings by one and the same court would also avoid conflict of decisions and also the parties, if need be, would also be required to adduce common evidence in both the matters. In such view of the matter, it is found that the interest of justice would be advanced, if both the proceedings are tried and determined by one and the same court.

5. The petitioner has putforth certain inconvenience and hardship in attending the proceeding at Chennai Court.

Further, it is also her case that she as well as the respondent are residing at Tambaram and accordingly contended that by having the proceeding transferred to Tambaram Court from Chennai Court, the respondent would not be caused serious prejudice. In any manner, the abovesaid cause projected by the petitioner being acceptable, accordingly, unable to resist the same, the respondent has also not chosen to contest the transfer request of the petitioner.

6.For the reasons aforesaid, O.P.No.4624 of 2017 is withdrawn from the file of the I Additional Family Court, Chennai and O.S.No.50 of 2016 is withdrawn from the file of the District Munsif court, Tambaram and both the proceeding are transferred to the file of the Subordinate Court, Tambaram for joint trial and disposal according to law. Accordingly, the Transfer Miscellaneous petition is ordered. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The I Additional Family Court, Chennai.
- 2.The District Munsif Court, Tambaram.
- 3.The Subordinate Court, Tambaram.

+lcc to M/s.A.Arulmozhi, Advocate sr.no.66322

nr 16/10/2018

Order made in
Tr.C.M.P.No.178 of 2018
and
C.M.P.No.4831 of 2018