

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 22.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN
Transfer CMP. No.501 of 2018
and
C.M.P.No.12349 of 2018

M.Rupalini ... Petitioner/Respondent
Vs
D.Leela Vinoth ... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of the Civil Procedure to withdraw the case in H.M.O.P.No.303 of 2018, pending on the file of the learned Subordinate Judge, Poonamallee and to transfer the same to the learned VII Additional Judge, Family Court, Chennai, to inquire together with O.P.No.1421 of 2017.

For Petitioner : Ms.K.Sumathi
For Respondent : No appearance

O R D E R

This petition is filed by the petitioner/wife to withdraw the case H.M.O.P.No. 303 of 2018, pending on the file of the learned Subordinate Judge, Poonamallee and to transfer the same to the file of the VII Additional Family Court, Chennai, to inquire together with O.P.No.1421 of 2017.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 24.04.2017 at K.Dhanakotti Ammal Thirumana Mandapam, Vanagaram, as per Hindu Rites and Customs. After the marriage, due to misunderstanding between the petitioner and the respondent, the petitioner left matrimonial home and started living away from the respondent from 30.04.2017. Further, she filed an application before the learned VII Additional Judge, Family Court, Chennai under Section 14 of Hindu Marriage Act, through which she seeks relief of divorce from the respondent. The said application is pending on the file of the VII Additional Family Court, Chennai.

3. In the meanwhile, the respondent filed an application under Section 12 and under Section 13(1) (i-a) of Hindu Marriage Act, 1955 along with an application in I.A.246 of 2017 under Section 14 of the Hindu Marriage Act, craving leave to file a petition within a period of one year from the date of marriage. As of now, the application filed by the respondent was pending with the learned Subordinate Judge, Poonamallee, in

H.M.O.P.No.303 of 2018. Now, in respect of the prayer sought for by the petitioner, it was argued that, since the petition in respect of connected dispute is pending with the VII Additional Family Court, it is desirable to try both the petitions in a single Court, in order to avoid multiplicity of proceedings.

4. In the said circumstances, today when the application is taken up for consideration, even after printing the name of the respondent in the causelist, the respondent has not appeared before this Court either personally or through the advocate.

5. From the averments made in the affidavit, it is clear that the application pending with the learned VII Additional Judge, Family Court, Chennai and the case pending on the file of the learned Subordinate Judge, Poonamallee, are all relates to the dispute arising out of the matrimonial life between petitioner and respondent.

6. As of now, the petitioner was residing in No.35/12, Watkins Street, Perambur, Chennai. The respondent has also residing in Chennai. Since, the petitioner and the respondent were residing in the Chennai, it is appropriate to try the both cases in single Court for avoiding the conflicting Judgments and multiplicity of proceedings. To allowing of this application, either partly has not been prejudiced in either way.

7. Accordingly, the Transfer civil Miscellaneous Petition is ordered. The case in H.M.O.P.No.303 of 2018 is ordered to be withdrawn from the file of learned Subordinate Judge, Poonamallee and to be transferred to the VII Additional Family Court, Chennai, to try along with the O.P.No.1421 of 2017 filed by the petitioner, in order to avoid multiplicity of proceedings and conflicting Judgments being delivered by two different Courts. The learned Subordinate Judge, Poonamallee, is directed to transmit all the records pertaining to H.M.O.P.No.303 of 2018, on the file of the learned Subordinate Judge, Poonamallee to the VII Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the VII Additional Family Court, Chennai, is directed to dispose of the cases as expeditiously as possible. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Subordinate Court, Poonamallee.

2. The VII Additional Family Court, Chennai.

+1cc to Ms.K.Sumathi, Advocate sr.no.79769

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