

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :20.09.2018

PRONOUNCED ON :27.09.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.512 of 2018
and
C.M.P.No.12561 of 2018

N.Arthi ...Petitioner

Vs.

K.Santhosh Kumar ...Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the proceedings in H.M.O.P.No.52 of 2018 on the file of the Sub Court, Thiruvannamalai and transfer the same to the Sub Court, Neyveli.

For Petitioner : Mr.R.Raja

For Respondent : Mr.T.Shanmugam

O R D E R

The petitioner has laid the transfer petition. According to her, the alleged marriage between her and the respondent was not performed and based on her will and consent, on the other hand, according to the petitioner, taking unfair advantage of her feeble mind and on false promises made by his mother and by way of taking her coercively to the Sub Registrar Office, Kadalaady, though the petitioner had expressed her unwillingness for the marriage, accordingly, it is stated that the alleged marriage between the petitioner and the respondent was not duly conducted as such and it is not a valid marriage and accordingly, it is stated by the petitioner that she had laid O.S.No.33 of 2018 against the respondent on the file of the District Munsif Court, Neyveli to annul the marriage registered, vide marriage certificate dated 25.04.2016 issued by the Sub Registrar, Kadalaady declaring that the marriage has been solemnized on 12.02.2016 at Pillaiyar Koil street, G.N.Palayam, Pudhupalayam village, Chengam Taluk, Thiruvannamalai District by a decree of

nullity on the ground that the consent was obtained by force as to the nature of ceremony or circumstances concerning the respondent.

2. It is now stated by the petitioner that seeking restitution of the conjugal rights on the basis of the alleged marriage and with a view to harass her, the respondent has levied the H.M.O.P.No.52 of 2018 against her on the file of the Subordinate Court, Thiruvannamalai and accordingly, putting forth certain inconvenience and hardship in attending the proceeding at Thiruvannamalai court and also putting forth that inasmuch as the suit laid by her is already pending on the file of the District Munsif Court, Neyveli, accordingly, prayed for the transfer of the O.P proceeding from Thiruvannamalai Court to Sub Court Neyveli for disposal.

3. The respondent contested the transfer request of the petitioner by contending that the marriage between the parties took place validly and only with a view to avoid the marriage deliberately and cause hardship and loss to the respondent, the petitioner has laid the false suit against him in O.S.No.33 of 2018 on the file of the District Munsif Court, Neyveli and on the other hand, inasmuch as the respondent is willing to join with the petitioner, he has levied the O.P for restitution of conjugal rights and accordingly contended that the transfer request of the petitioner is not bonafide and made with a view to cause loss and hardship to the respondent and therefore, prayed for the dismissal of the transfer petition.

4. Now, according to the petitioner, no valid marriage took place between her and the respondent and as regards her said case, seeking declaration with reference to the same, i.e., the alleged marriage between her and the respondent, she had levied O.S.No.33 of 2018 and the same is found to be pending on the file of the District Munsif Court, Neyveli. Contending that a valid marriage took place between the parties and the respondent is willing to join her and only the petitioner is resisting the same, accordingly, seeking restitution of conjugal rights, the respondent had laid O.P against the petitioner in H.M.O.P.No.52 of 2018 on the file of the Sub Court, Thiruvannamalai. Thus, it is found that the petitioner is disputing the validity of the alleged marriage and on the other hand, the respondent has put forth the case that the marriage celebrated between the parties is a valid marriage. Thus, it is found that the issues involved between the parties in the abovesaid proceedings are more or less one and the same. One party pleading that no valid marriage had taken place, another party pleading that a valid marriage was held between them. In such view of the matter, it is found that common issues would arise for adjudication in both the proceedings between the

parties. In such view of the matter, if the proceeding are allowed to continue in two different forums, the same involving common issues between the parties, the determination of the proceeding by two different courts would also result in conflict of decisions. The same would not advance the cause of justice. Furthermore, if the proceeding abovestated are jointly tried by one and the same court, it is found that, by way of the same, the parties also would be required to adduce common evidence and conflict of decisions could also be avoided and furthermore, the cause of justice would be advanced by way of the same. The petitioner has also put forth certain inconvenience and hardship in attending the proceeding at Thiruvannamalai Court and the same cannot be easily discarded. It is also noted that the respondent would not be seriously prejudiced, if the proceeding abovestated are conducted at Neyveli Court.

5. For the reasons aforesated, H.M.O.P.No.52 of 2018 is withdrawn from the file of the Sub Court, Thiruvannamalai and similarly, O.S.No.33 of 2018 is withdrawn from the file of the District Munsif Court, Neyveli and both are transferred to the file of the Subordinate Court, Neyveli for joint trial and disposal as per law. Accordingly, the Transfer Miscellaneous Petition is allowed. 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 Sub Court, Thiruvannamalai.
2. The Sub Court, Neyveli.
3. The District Munsif Court, Neyveli.

+1cc to Mr.T.Shanmugam, Advocate Sr.67239

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srg 11/10/2018