

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P.No.683 of 2016
and C.M.P.No.17857 of 2016

M.Dhanshath

... Petitioner

Vs.

Jiyaul Huk

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw G.W.O.P.No.11 of 2016 pending on the file of the District Court, Pudukottai and transfer the same to the file of the Family Court, Chennai.

For Petitioner : Ms.P.Arasammal
for Ms.D.Prasanna

For Respondent : No Appearance

O R D E R

This petition is filed to withdraw G.W.O.P.No.11 of 2016 pending on the file of the District Court, Pudukottai and transfer the same to the file of the Family Court, Chennai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 30.08.2012 as per Muslim rites and customs. In the wedlock, a male child was born. On 29.01.2016, the respondent and his family members treated the petitioner cruelly and physically assaulted her by demanding dowry. The petitioner was admitted in the Government Hospital in Pudukottai. A complaint was taken from the petitioner in the hospital by the Sub-Inspector of Police, Ganesh Nagar Police Station. The petitioner filed H.C.P.No.193 of 2016 before this Court. On receiving notice in the said H.C.P, the respondent filed G.W.O.P.No.11 of 2016 for custody of minor son on

the file of the District Court, Pudukottai. The petitioner has filed M.C.No.378 of 2016 on the file of the II Additional Family Court, Chennai, claiming maintenance.

3. According to the petitioner, she is residing at Chennai. The distance between Chennai and Pudukottai is more than 380 kms and hence, it will be very difficult for her to travel such a long distance to attend each and every hearing. The respondent forcefully took the minor son from the petitioner. The respondent is living in adultery. The respondent and his family members assaulted the petitioner in the Court premises. If she goes to Pudukottai, her life will be in danger. In the circumstances, she has filed the present petition to transfer G.W.O.P.No.11 of 2016 pending on the file of the District Court, Pudukottai to the file of the Family Court at Chennai.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice has been served on the respondent privately as well as through the lower Court counsel and his name is printed in the cause list, there is no representation for him either in person or through counsel.

5. The respondent has filed G.W.O.P.No.11 of 2016 on the file of the District Court, Pudukottai. The petitioner has stated that respondent and his family members assaulted the petitioner mercilessly, when she attended the Court. According to the petitioner, there is a life threat to the petitioner by the respondent and his family members. The petitioner has filed M.C.No.378 of 2016 on the file of the II Additional Family Court, Chennai which is pending.

6. The jurisdiction of the Court in respect of petition for custody of minor is the place where the minor resides. In the present case, according to petitioner, the respondent forcefully took the minor child from her and whereabouts of minor child is not known to the petitioner. He filed H.C.P.No.193 of 2016 against the respondent for production of minor before this Court. When the H.C.P was taken up for hearing, the respondent has informed this Court that he has already filed G.W.O.P.No.11 of 2016 for custody of minor son. Recording the same, this Court closed H.C.P.No.193 of 2016. Even now, the petitioner is not aware of whereabouts of minor son. In such circumstances, this is a fit case in the

interest of justice to transfer G.W.O.P.No.11 of 2016 pending on the file of the District Court, Pudukottai to the file of the Family Court, Chennai.

7. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in G.W.O.P.No.11 of 2016 is ordered to be withdrawn from the file of District Court, Pudukottai and transferred to the file of Family Court at Chennai, to be tried along with M.C.No.378 of 2016. The learned District Judge, Pudukottai is directed to transmit all the records pertaining to G.W.O.P.No.11 of 2016 to the file of the Family Court at Chennai, 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.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

gsa
To

1. The District Judge, Pudukottai.

2. The Judge, Family Court, Chennai.

+2 cc to Ms.D.Prasanna Advocate SR.NO. 49297

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ASK(03/09/2018)

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