

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Transfer CMP. No.713 of 2018 &

CMP No.17598 of 2018

A. RenugaPetitioner / Respondent

Vs

G. SenthilkumaresanRespondent / Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw H.M.O.P.No.64 of 2018 from the file of Family Court, Villupuram and to transfer the same to the file of Family Court, Puducherry.

For Petitioner : Mr. P. Veeraraghavan

For Respondent : Mr.J.P. Karunakaran

O R D E R

This petition has been filed by the petitioner seeking the relief to withdraw H.M.O.P.No. 64 of 2018 from the file of Family Court, Villupuram and to transfer the same to the file of Family Court, Puducherry.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was conducted on 08.06.2017 according to Hindu Rites and Customs. Before the said marriage, the petitioner herein was married with another man and the said marriage was dissolved on 09.03.2015 itself. As the families of the petitioner and the respondent are all close relatives, only after knowing the details of first marriage, the respondent's family approached

the petitioner family for arranging the 2nd marriage of the petitioner with the respondent. It is averred that for the celebration of marriage function on behalf of the petitioner, 35 sovereign gold and silver articles worth Rs.3.00 Lakhs were given to the respondent. After few days from the date of marriage, the respondent started to demand of further dowry irrespective of his promise made at the time of marriage. Hence, difference of opinion arose between the petitioner and the respondent, resultantly the petitioner left the matrimonial home and she was residing with her parents at Puducherry.

3. In the meantime, the respondent filed a petition under Section 12(1) (C) of Hindu Marriage Act 1955 against the petitioner as if that the consent for the marriage was obtained from him by way of fraud. The said case is now pending before the Family Court, Villupuram as H.M.O.P.No.64 Of 2018, through the above, he is seeking the relief of dissolution of his marriage happened with the petitioner.

4. By filing Counter statement, the respondent denied all the allegations levelled against him. It is averred that the petitioner got married with the respondent by suppressing her 1st marriage. Apart from the case now required to be transferred from the file of Family Court, Villupuram, the petitioner had filed a complaint against the respondent under the provisions of Protection of Women from Domestic Violence Act, 2005 and the same was pending before the Judicial Magistrate No.III, Puducherry in D.V.C.No.8 of 2018. Further, the petitioner lodged a false complaint against the respondent before All Women Police Station, Villiyanur, Pudhucherry and the same got registered as a case in Crime No.3 of 2018. According to him, this application is allowed, much inconvenience will cause to him and hence he prayed to dismiss this transfer application filed by the petitioner.

5. Heard Mr. P. Veeraraghavan, the learned counsel appearing for the petitioner and Mr.J.P. Karunakaran, the learned Counsel appearing for the respondent.

6. The learned Counsel appearing for the petitioner would submit that after disclosing the fact that the petitioner is a divorcee, the respondent's family agreed to marry her and 35 sovereign gold and silver articles worth Rs.3.00 Lakhs also received by the respondent at the time of marriage. Further it is submitted that since the distance between Villupuram and Puducherry is about 50 kms, it is difficult for the petitioner in attending the Court proceedings at Villupuram.

7. Per contra, the learned Counsel appearing for the respondent would contend that by suppressing the 1st marriage of the petitioner, the petitioner got married with the respondent. In respect to the dowry demand made by the respondent, it is invented for the purpose of filing this application. According to him, the petition filed by the petitioner is liable to be dismissed.

8. Before considering the merits and demerits of this petition, it is necessary to see the issue raised in this petition. In general, for disposing these type of petitions, we have to see whether the sufficient cause was projected by the petitioner for allowing this petition. In respect to this petition, except the petition mentioned case i.e H.M.O.P.No.64 of 2018, the case registered under Section 12 of the Protection of the Women Domestic violence Act 2005 and the case registered by All Women Police Station, Villiyanur in Cr.No.3 of 2018 are all pending with the Courts situated in Puducherry. However, those case can not be clubbed with the case now required to transfer.

9. The only grievance redressed by the petitioner is that being a lady, it is difficult for her to go to Villupuram and attend the Court proceedings. In otherwise, the other allegations levelled by the petitioner is not relevant to decide the issue raised in this application. According to the petitioner, the distance between Villupuram and Puducherry is nearly 45 kms. Further, there is frequent bus and train facilities are available for the petitioner to reach Villupuram. So for reaching Villupuram, particularly for attending Court proceedings, much amount is not necessary to the petitioner. So, the only ground raised by the petitioner is also not fully supported through the relevant materials. However, during the time of arguments, both the counsels are present and represented that transferring the case i.e H.M.O.P.No.64 of 2018 from the file of Family Court, Villupuram to the file of Family Court, Cuddalore is sufficient remedy for both the petitioner and the respondent.

10. Hence, considering the submissions made by either side counsels and also taking into consideration of the distance between Pudhucherry and Cuddalore, which is nearly 25 kms, the case in H.M.O.P.No.64 of 2018 pending on the file of Family Court, Villupuram is ordered to be withdrawn and to transfer to the file of Family Court, Cuddalore. The Presiding Officer of the Family Court, Villupuram is directed to transmit the case records pertaining to H.M.O.P.No.64 of 2018 to the file of

Family Court, Cuddalore within a period of two weeks from the date of receipt of copy of this order. On receipt of such records, the learned Judge, Family Court, Cuddalore is directed to dispose of the case as expeditiously as possible. The connected miscellaneous petition is closed. No costs.

vrn

Sd/-
Assistant Registrar(CS IV)

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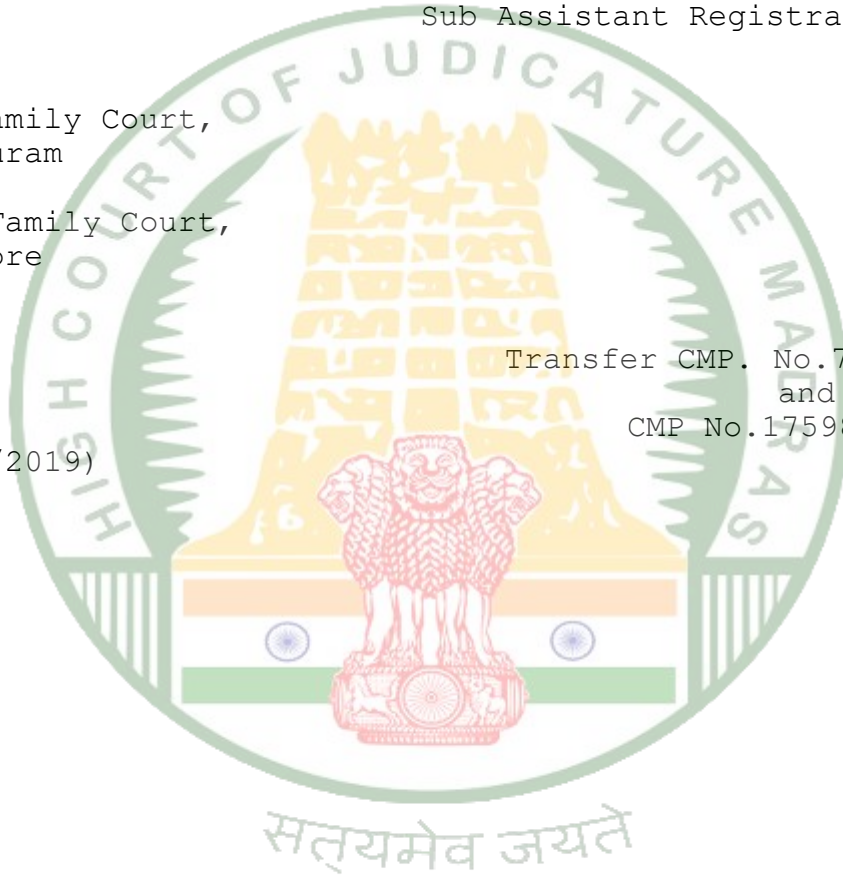
Sub Assistant Registrar

To

1. The Family Court,
Villupuram
2. The Family Court,
Cuddalore

Transfer CMP. No.713 of 2018
and
CMP No.17598 of 2018

KAK(31/01/2019)



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