

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.11.2018

Coram

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

Tr. C.M.P. No.840 of 2018

and

CMP.No.20830 of 2018

A. Mohammed Sahbeer

Petitioner / Respondent

Vs.

K. Nazreen

Respondent / Petitioner

Prayer: The Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw G.O.P.No.13 of 2018 pending on the file of Family Court, Pondicherry and to transfer the same to Family Court, Yanam.

For Petitioner : Mr. V. Ramana Reddy

O R D E R

The Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw G.O.P.No.13 of 2018 pending on the file of Family Court, Pondicherry and to transfer the same to Family Court, Yanam.

2. The petitioner is the husband and the respondent is the wife. On 17.01.2016, the marriage between the petitioner and the respondent was solemnized as per the Muslims customs and ceremonies, at Nagapattinam. After the marriage, both of them went to United Kingdom, wherein the petitioner spent a sizable sum of money towards the respondent studies in medicine and the respondent also completed her further studies in medicine at United Kingdom. In the meanwhile, the respondent gave birth to a male child on 20.05.2017 named Mohammed Arshad. Subsequent to that, after collecting all the certificates from the concerned Institution, the respondent left the United Kingdom without informing to the petitioner. Moreover, the respondent filed an application against the petitioner in OS No. 21 of 2018 on the file of Family Court, Pondicherry, for the relief of dissolution of marriage.

3. Furthermore, one another application has also been filed by the respondent against the petitioner in G.O.P.No. 13 of 2018, now pending on the file of Family Court, Pondicherry, for appointing the respondent as a guardian to the minor child named as Mohammed Arshad. In the said circumstances, the petitioner approached this Court for the relief stated in Paragraph No.1 of this Order.

4. The only grievance raised by the petitioner is, when at the time of attending the Court proceedings in Pondicherry, the petitioner and his parents were threatened them through some unknown persons. Further, the petitioner made a submission that the parents of the respondent are very powerful and influencing persons in Pondicherry. It is submitted that if the above said G.O.P No.13 of 2018 is not transferred to the Family Court, Yanam, it will cause much prejudice to the petitioner.

5. Even though, the reason stated by the petitioner is sufficient ground to accept the prayer sought for by the petitioner, in order to prove the allegations now levelled by the petitioner against the respondent, no relevant documents have been produced on the side of the petitioner. Further, the distance between Pondicherry and Yanam is about 500 kms. In the said circumstances, if the said G.O.P No.13 of 2018 is transferred to the Family Court, Yanam, being a lady, it will be very difficult for the respondent to attend the Court proceedings at Yanam.

6. In the said circumstances, it is necessary to look into the decision of our Honourable Apex Court, reported in Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta reported in 2008(9) SCC 353 and in Sumita Singh Vs. Kumar Sanjay and another reported in AIR 2002 SC 396. In the said Judgment, it was held that the convenience of the wife must be taken into account for deciding these type of applications.

7. In the light of the above discussions, I am of the considered opinion that this Court is not inclined to allow this application. Accordingly, the petition is dismissed. Consequently connected Miscellaneous Petition is closed. No costs.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

vrn
To

The Judge
The Family Court, Pondicherry

+1 CC to Mr.V. Ramana Reddy, Advocate sr 82407.

Tr. C.M.P. No.840 of 2018

SP(21/12/2018)