

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.09.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.92 of 2019
and
C.M.P.No.3206 of 2019

Indumathi

..Petitioner

Vs.

Karthikeyan

...Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in HMOP. No.400 of 2018 from the Subordinate Court, Namakkal and transfer the same to the Subordinate Court, Poonamallee.

For Petitioner : Mr.C.R.Malarvannan

For Respondent : Mr.R.Ganeshkumar

O R D E R

This petition has been filed to withdraw the case in HMOP. No.400 of 2018 on the file of the Subordinate Court, Namakkal and to transfer the same to the Subordinate Court, Poonamallee.

2. The respondent and the petitioner are the husband and wife. The marriage between the parties was solemnized on 30.11.2011 at Senthil Andavar Thirumana Mandapam, Koolipatti, Senthamangalam Taluk, Namakkal District, as per Hindu Rites and Customs. In the wedlock, one male child was born to them. The respondent is an alcoholic addict and he had an illicit relationship with some other women. When the petitioner asked about the same, the respondent has started to harass her. The respondent has filed a petition in HMOP. No.400 of 2018 before the Family Court, Namakkal, for divorce. In the meanwhile, the petitioner has filed a maintenance case before the learned Judicial Magistrate, Ambattur in M.C.No.5 of 2019. The petitioner/wife is residing along with her parents at Ambattur. She finds it difficult to travel down to Namakkal and therefore, she seeks transfer of HMOP. No.400 of 2018 filed by the husband before Family Court, Namakkal to Subordinate Court, Poonamallee.

3. The learned counsel for the petitioner would submit that the petitioner and her child are living with her parental house in Ambattur. The petitioner's father had died and the mother is an aged person. The petitioner has no income to meet her day to day expenses and her child's education and medical expenses. It is very difficult to the petitioner to travel from Ambattur to Namakkal along with her child to attend the hearings of the divorce case. If the case is transferred to the Family Court, Cuddalore, no prejudice would be caused to the respondent. Hence, she seeks transfer the divorce case filed by the respondent to Subordinate Court, Poonamallee.

4. The learned counsel for the respondent would submit that the respondent is working in a Provision Store at Namakkal. On the days of Court hearing, he would request leave for only one day. If the case is transferred to Poonamallee, he would be forced to take leave for a couple of days. This would be an additional burden for the respondent to travel to Poonamallee for attending Court proceedings. The Petitioner is unemployed and therefore, she can very well attend the Court in Namakkal. No prejudice would be caused to her. Hence, he prays this Court to dismiss this petition.

5. Heard the learned counsel for the petitioner as well as the respondent and also perused the materials available on record. No valid reason has been stated by the respondent for dismissal of the transfer petition. The petitioner has made out a case for transferring the petition pending in Namakkal Sub Court.

6. Considering the facts and circumstances of the case, this Court is of the view that the petition in HMOP. No.400 of 2018 on the file of the Family Court, Namakkal should be withdrawn and transferred to the Subordinate Court, Poonamallee.

7. Accordingly, this petition is allowed. The Original Petition in HMOP. NO.400 of 2018, on the file of the Family Court, Namakkal is withdrawn and the same to be transferred to the Subordinate Court, Poonamallee. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Subordinate Court, Poonamallee.

2. The Family Court, Namakkal.

+1cc to Mr.R.Ganeshkumar, Advocate SR.No.79433

+1cc to Mr.C.R.Malarvannan, Advocate SR.No.79565

Tr.C.M.P.No.92 of 2019

and

C.M.P.No.3206 of 2019

RGN(CO)

GMV(27/11/2019)