

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 28.11.2019
CORAM
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.115 of 2019
and
C.M.P.No.4005 of 2019

S.Sudha Marry

..Petitioner

Vs.

P.Arun Prakash

...Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the HMOP. No.1728 of 2018 pending on the file of the learned Additional Principal Family Judge, Coimbatore and transfer the same to the file of the V Additional Family Court, Chennai, to try along with the OP. No.4652 of 2018.

For Petitioner : Mr.Thenmozhi Shiva Perumal

Respondent : Mr.S.B.Viswanathan

O R D E R

This petition has been filed to withdraw the HMOP. No.1728 of 2018 pending on the file of the learned Additional Principal Family Judge, Coimbatore and transfer the same to the file of the V Additional Family Court, Chennai, to try along with the OP. No.4652 of 2018.

2. The case of the petitioner is that the respondent and the petitioner is the husband and wife and the marriage between the parties was solemnized on 06.06.2016 at Sai Krishna Mahal, Thirumana Mandapam, Ganapathy, Coimbatore North Taluk, Coimbatore as per Hindu Rites and Customs. The respondent is working as an Engineer at Singapore and earning a sum of Rs.5 Lakhs per month. After the marriage, the couples went to Singapore and started marriage life. Out of the wedlock, no child was born. The petitioner has completed M.C.A. Graduation and she has also joined in a private company at Singapore and earning a sum of Rs.1.7 Lakhs. From the day of marriage, the respondent has never shown any love and affection.

3. The respondent's younger sister viz., Anitha Sarathy is also living at Singapore along with her husband and a child in a separate house. Due to ill advice of his sister and mother, the respondent started to ill-treat the petitioner and scolded her with filthy language. The respondent has spent his time with his sister's house and came at late night. When the petitioner asked about the same, the respondent and his sister and brother in law started troubling and teasing the petitioner.

4. The respondent was avoiding to cohabit with the petitioner. When the petitioner asked the respondent as to why he is not interested to get a child, he has beaten the petitioner and sent her from the matrimonial house on 31.05.2017. Thereafter, the petitioner's parents arranged air ticket for the petitioner and she returned to India on 03.06.2017. The respondent and his family members have threatened the petitioner to give consent for divorce. After mediation, the respondent has taken her to Singapore. On several occasions, the respondent has taken her to Singapore and sent her from the matrimonial home, repeatedly. Finally, the petitioner has come in India on 03.08.2018 and thereafter, she has filed a petition in OP. No.4652 of 2018 for restitution conjugal rights and also filed a maintenance case in M.C.No.482 of 2018 for maintenance before the III Additional Principal Family Court, Chennai. Subsequently, the respondent has also filed a divorce case in HMOP. No.1728 of 2018 before the Additional Principal Family Court, Coimbatore. The petitioner is a resident of Chennai and she finds it difficult to travel from Chennai to Coimbatore. Hence, she seeks transfer of the divorce case in HMOP. No.1728 of 2018 filed by the respondent from the Additional Principal Family Court, Coimbatore to the file of the III Additional Principal Family Court, Chennai, to try the cases filed by the petitioner.

5. The learned counsel for the petitioner would submit that both the cases are inter-related to each other and both the case have to be tried together at the III Additional Principal Family Court, Chennai. In order to avoid conflicting findings, joint trial is necessary. The learned counsel would further submit that the petitioner is a house wife and she is now residing along with her aged parents and she is depending upon her parents. It is very difficult for the petitioner to travel alone from Chennai to Coimbatore, which comes around 496 Kms. If the case is transferred to Chennai, no prejudice would be caused to him. Hence, she seeks transfer of the divorce case filed by the husband to the file of the III Additional Principal Family Court, Chennai, to try along with the cases filed by the petitioner.

6. The learned counsel for the respondent would submit that the respondent has vehemently denied all the allegations made by the petitioner. The petitioner is unemployed, she would very well attend the Court. Hence, the learned counsel prays to dismiss the transfer petition.

7. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8. Heard the learned counsel for the petitioner as well as the respondents and also perused the materials available on record.

9. I am satisfied with the reasons stated in the affidavit filed in support of this petition. The Hon'ble Supreme Court in the judgment reported in 2008(9) SCC 353 (Arti Rani @ Pinki Devi and another Vs.Dhamendra Kumar Gupta) has held that convenience of woman is to be taken into consideration first at the time of considering the above transfer application. Further the petitioner has filed a petition for restitution of conjugal rights in HMOP. No.4652 of 2018 on the file of the Family Court, Chennai and the respondent has filed a petition for dissolution of marriage in HMOP, No.1728 of 2018 on the file of the learned Additional Family Court, coimbatore. This Court is of the opinion that since both the cases are interconnected and Joint trial would meet ends of justice and also avoid conflicting orders.

10. In view of the above, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

***The learned Additional Principal Family Judge, Coimbatore, is directed to transmit the entire records in HMOP.No.1728 of 2018 on the file of the Additional Principal Family Court, Coimbatore, to the file of the V Additional Family Court, Chennai and the learned Judge, Family Court, Chennai is directed to dispose of the same on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.**

Sd/-

Assistant Registrar (CS-III)

***Amended as per order**

dated 17.12.2020 made in TRCMP.115/2019

-s/d-

Assistant Registrar (CSV I)

dt 21/12/2020

// True Copy//

Sub Assistant Registrar

rli

To

1.The Additional Judge,
Family Court, Coimbatore.

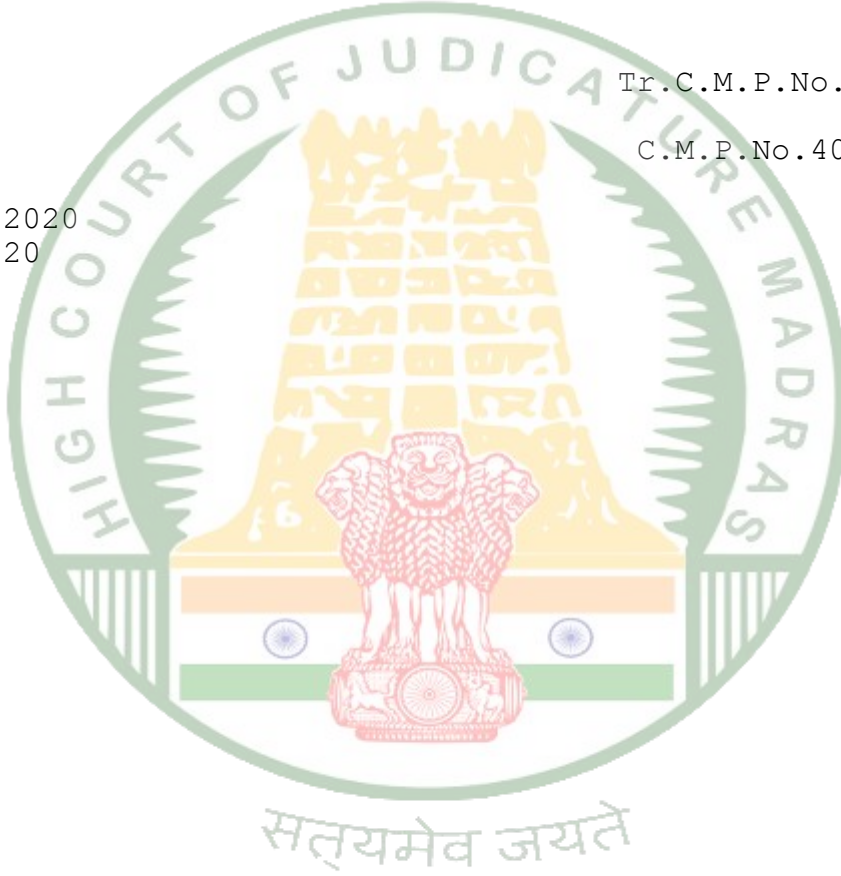
2.The V Additional Family Court,
Chennai.

_To substituted the order
already despatched on
13/03/2020

+1CC to Mr.S.B.Viswanathan, Advocate, SR.No.*41927

VD(CO)
CSR:21/01/2020
aa21/12/2020

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and
C.M.P.No.4005 of 2019



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