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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP Nos.113, 114 & 117 of 2019
and
CMP. Nos.3859, 3996 & 4047 of 2019

Abirami Chakravarthy

... Petitioner in all the
three Tr.CMPs

.Vs.

Kuttimani Anbazhagan

...Respondent in all the three
Tr.CMPs

PRAYER:

Transfer Civil Miscellaneous Petitions filed under Section 24 of CPC, to withdraw the HMOP. Nos. 1198 of 2017, 1502 of 2017 and GWOP No.1504 of 2017 pending on the file of the Additional Family Court, Coimbatore and transfer the same to the Sub Court at Tambaram.

For Petitioner : Mr.J.Ravikumar in all the three petitions

For Respondent : No appearance. Notice served through
lower court counsel.

COMMON ORDER

The petitioner-wife has prayed before this Court to withdraw the HMOP. Nos. 1198 of 2017, 1502 of 2017 and GWOP No.1504 of 2017 pending on the file of the Additional Family Court, Coimbatore, and transfer the same to the Sub Court at Tambaram.

2. The case of the petitioner is that she got married to the respondent 24.01.2016 at Mani Mahal, Rama Lakshmi Nagar, near Mani Theatre, Peelamedu, Coimbatore as per Hindu Ritual Tradition and customs. The petitioner submits that her parents spent a lot for her marriage, which is stated in the affidavit. In spite of the same, her in-laws have compelled her family members to hand over the title documents of her parents' property situated at Urapakkam, Chennai, to enable the respondent to purchase a property in USA. The petitioner



submitted that after marriage, she settled in USA with the respondent/husband and during that period she suffered cruelty in the hands of the respondent who used to bring in call girls to the house and indulged in immoral pleasures and consumed alcohol. When the petitioner protested the behaviour of the respondent, he promised to reform himself and to refrain from such activities. Out of the said wedlock, she delivered a girl baby by name Aaradiyamani in the year 2017. The petitioner further submits that the respondent has also illicit affair with Veena and another relationship with Sathya Vethamani, wife of respondent's brother. The respondent also abused the petitioner physically with the aid of his mother and brother and due to the commotion, the landlord asked them to vacate the house and the petitioner has launched a police complaint. The respondent begged her to withdraw the same to avoid cancellation of his green card. The petitioner took her parents to USA to help her out with the new born child and to help her during the difficult situation. When their parents reached USA, her father fell sick and the petitioner could not afford medical treatment to her father as her father did not have medical insurance. Her mother also fell sick in July 2017 and hence the petitioner was forced to leave USA along with her parents and came to India for treatment. When the petitioner was about to return to USA, she came to know that her visa has been cancelled due to the complaint lodged by the respondent in USA to prevent her from entering USA again. She further submits that her 9 months old child Aaradiyamani is left behind in USA along with the respondent without mother's presence. In spite of her repeated requests, the respondent prevented her from coming back to USA and separated her from her child.

3. In the meanwhile, the respondent/husband has filed a petition for divorce on the file of the Additional Family Court, Coimbatore, in HMOP No.1198 of 2017 and the said petition was dismissed for default on 22.01.2018 due to non prosecution by the respondent. Subsequently, the respondent filed an application in I.A.No.567 of 2018 to appoint his friend G.Karthikeyan as power agent to appear and prosecute the case on behalf of the respondent along with an application to condone the delay in filing the restoration petition and the same is pending in the stage of hearing the miscellaneous petition filed to restore the main case. In the meantime, the petitioner has filed HMOP No.1502 of 2017 on the file of Additional Family Court, Coimbatore for restitution of conjugal rights and the respondent entered appearance through his lawyer and is contesting the case. The petitioner has also filed GWOP No.1504 of 2017 before the family court at Coimbatore under the Guardian and Wards Act 1890 seeking to declare herself as the guardian of her girl child, who is aged about 9 months and her custody due to her tender age. The same is contested by the respondent



through his friend G. Karthikeyan.

4. The petitioner submits that since she was residing at Kumbakonam, which is her native town, she could appear before the court at Coimbatore and later on, she shifted to Chennai and staying with her parents at Urapakkam as they are getting old and having lot of ailments and needs her support. Hence, the petitioner submits that she is unable to travel to Coimbatore often to attend the case due to financial constrains, which is also causing physical hardship and mental agony and accordingly prays to transfer H.M.O.P. No. 1502 of 2017 and GWOP No.1504 of 2017 filed by her before the Additional Family Court, Coimbatore along with HMOP. No. 1198 of 2017 filed by the respondent/ husband pending before the Additional Family Court at Coimbatore, to Sub Court, Tambaram. The petitioner further submits that as the respondent is residing in USA and the matter has been contested by his power agent, no prejudice will be caused if the above petitions are transferred to the Sub Court, Tambaram.

5. Notice was directed to be issued to the respondent by this Court and the same was returned as 'door locked'. The court directed the petitioner's counsel to serve the same to the counsel who is appearing for the respondent in the lower court. Accordingly the petitioner has sent the notice to the counsel Mr.A.Parthasaray, Mr.M.Murugesan and Mr.G.Srinivasan, Advocates, Priya complex, Gopalapuram 2nd street, Coimbatore and the same has been received on 07.03.2019. As the notice has been served to the counsel who is appearing for the respondent, it is presumed that the respondent has been intimated about the said petitions filed by the petitioner/wife. No vakalat has been filed before this court in spite of the said notice has been served on the counsel appearing for the respondent in Coimbatore. The name of the respondent is printed in the cause list and there is no appearance of any advocate on behalf of the respondent or the respondent in person before this court today. This court is of the view that in spite of receiving notice, the respondent has not taken steps to engage an advocate and contest the same. Hence, this court is inclined to transfer all the three petitions, viz, H.M.O.P. No. 1502 of 2017 and GWOP No.1504 of 2017 filed by the petitioner and HMOP. No. 1198 of 2017 filed by the respondent/husband, before the Additional Family Court, Coimbatore, to the Sub Court, Tambaram. Accordingly, H.M.O.P. No. 1502 of 2017 and GWOP No.1504 of 2017 filed by the petitioner and HMOP.No.1198 of 2017 filed by the respondent/husband, before the Additional Family Court, Coimbatore, are withdrawn from the Additional Family Court, Coimbatore, and transferred to Sub Court, Tambaram.



6. Accordingly, the Transfer Civil Miscellaneous Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge,
Family Court, Coimbatore

2. Sub Judge, Tambaram

+3ccs to Mr.J.Ravikumar, Advocate, S.R.No.89823

Tr.CMP.Nos.113, 114 &
117 of 2019

BP(CO)
CS/11/12/2019