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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.163 of 2019

Mrs.Gomathi
W/o Vijayshankar .. Petitioner

-vs-

V.Vijay Shankar .. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.792 of 2018 pending on the file of the Sub Court, Poonamallee and transfer the same to the file of the Sub Court, Cheyyar to be tried along with H.M.O.P.No.6 of 2019.

For Petitioner :: Mr.S.Makesh

For Respondent :: Mr.S.Yudhish Padman

ORDER

Mrs.Gomathi, Wife of Mr.V.Vijay Shankar has come to this Court seeking withdrawal of the pending H.M.O.P.No.792 of 2018 from the file of the Sub Court, Poonamallee and transfer the same to the Sub Court, Cheyyar to be tried along with H.M.O.P.No.6 of 2019 filed by the petitioner for restitution of conjugal rights.

2. Learned counsel for the petitioner submitted that before marriage, there was an understanding between the parties that the petitioner would get her job transferred to Bangalore, since she has been working as Technical Assistant in BSNL at Arani, Tiruvannamalai District and the respondent/husband was working in Bangalore. But, after sometime, he went to the United States in search of a better job. In the meanwhile, they have been blessed with a son, who is now aged 8 years. The petitioner also travelled to the United States on two occasions and came back to her native place at Vandavasi in India. As the petitioner is not willing to go to the United States, as she is working at Arani, the respondent/husband has filed the divorce petition before the Sub Court, Poonamallee. Since the petitioner has filed the petition for restitution of conjugal

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rights before the Sub Court, Cheyyar, there cannot be any objection on the part of the respondent/husband for transferring the pending divorce petition from the file of Sub Court, Poonamallee to the Sub Court, Cheyyar.

3. In reply, the learned counsel for the respondent submitted that the respondent is ready to take back the petitioner and his son to the United States. But the petitioner alone is hesitant to come along with the son to the United States. In view of her refusal to stay permanently with the respondent, he has filed the divorce petition.

4. As the petitioner has filed the petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and is also having an eight year old son, this Court deems it fit to allow the transfer civil miscellaneous petition. Accordingly, H.M.O.P.No.792 of 2018 filed by the respondent/husband for divorce is withdrawn from the file of the Sub Court, Poonamallee and the same is transferred to the file of the Sub Court, Cheyyar to be tried along with H.M.O.P.No.6 of 2019 filed by the petitioner for restitution of conjugal rights.

5. Learned counsel for the respondent made a request to dispense with the personal appearance of the respondent before the Sub Court, Cheyyar. Such a request can be placed before the Sub Court, Cheyyar and if any such request is made, the same shall be considered by the learned Subordinate Judge, Cheyyar. With this observation, Tr.C.M.P.No.163 of 2019 stands allowed. Consequently, C.M.P.No.5135 of 2019 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To
1. The Subordinate Judge
Poonamallee

2. The Subordinate Judge
Cheyyar

+1cc to Mr.S.Makesh, Advocate sr.55877

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