

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2019

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP.No.189 of 2019
and CMP.No.5873 of 2019

Mrs. V.M.Subashree

.. Petitioner

Vs

Mr.P.J.Sankar Ganesh

.... Respondent

Prayer : Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure, pleaded to Withdraw the H.M.O.P.No. 19 of 2019 on the file of the District Family Court at Madurai District and transfer the same to the Family Court at Chennai.

For Petitioner : Mr.B.Sundar

For Respondent : Mr.S.Diraviam Dinesh

ORDER

The petitioner has sought for a direction to withdraw the HMOP.No.19 of 2019 filed by the respondent husband for divorce, which is pending before the District Family Court at Madurai and transfer the same to the Family Court at Chennai.

2. The case of the petitioner is that she got married to the respondent herein on 26.11.2012 at MAC Shenbalinga Nadar Sironmani Ammal Kalyana Mandam at Madurai and they were living together in Chennai for some time at Vadapalani and later, the respondent got transfer to Bengaluru, where the petitioner also shifted and continued there for few more years. The petitioner's contention is that the respondent was working as software engineer and was very ambitious to buy a house of his own in Chennai even though he could not afford to buy the same using the petitioner money, they purchased the same.

3. In January 2019, the respondent asked the petitioner to go to her parents house for celebrating the Pongal festival and later he did not take up her calls and did not answer her at any point of time. Later, it was found that respondent was angry on her for not supporting him financially for purchase of the

house. The respondent has deliberately filed a petition for divorce in Madurai and that the respondent knowing well that the petitioner was now residing at Chennai with her parents in Anna Nagar and the petitioner's mother was seriously ill and taking treatment in Chennai and she was looking her mother and it would be inconvenient for the petitioner to go to Madurai alone. Since the respondent is working at Bangalore, only to harass the petitioner, the respondent filed a petition for divorce before the Madurai Court. The learned counsel for the petitioner further submits that it is practically unsafe and impossible for the petitioner to attend every hearings at Madurai and the petitioner is not financially sound or well off like the respondent, who can easily come to Chennai, if he so desires and prays for transferring the matter from Madurai to Chennai.

4. The husband/respondent has filed a counter objecting all the allegations stated in the affidavit and the learned counsel for respondent submitted that the petitioner is fond of luxury life style and she forced him for lunch at 5-star hotels and wanted expensive jewels on regular basis. The learned counsel for respondent further submitted that the petitioner would pick up unnecessary quarrels and damage the articles whenever her unreasonable demands were not met and the petitioner would go to the parents' house, stay there for months together and would not even bother to answer the respondent's calls and the respondent had not made any demands from her parents and he filed a H.M.O.P petition for divorce only based on the conduct of the petitioner, which is forced him to file the same. He would also submit that the petitioner is running two business and she is getting more money from the said business and collecting rent from the household properties, but the respondent is an employee depending on the salary. The learned counsel for respondent further submits that at the time of mediation the petitioner and her family members had threatened that they will file petition under Section 498A of IPC and also under the Domestic Violence Act and he was very much worried about facing trial before the Family Court, Chennai. The respondent and his parents have filed the complaint before the C-3, S.S. Colony Police station against the petitioner stating that the petitioner had taken away the jewels of his mother, when demanded they have not returned the same. The petitioner, has political and muscle power at Chennai. Hence, she seeks transfer of case to Chennai.

5. Heard the learned counsel appearing for both the parties.

6. This Court is of the view that both the parties complain against each other, which has to be decided before the Trial Court. Regarding transfer of the case from Madurai to Chennai is concerned, this Court is of the view that the petitioner is at

Chennai and it would be possible for the respondent to reach Chennai, who is working at Bangalore. Even though there are counter allegations against the petitioner and the respondent, all these matters have to be decided before the Trial Court for getting a decree of divorce.

7. Since it will be convenient for both the parties to attend the Court at Chennai, the said HMOP filed by the husband before the Madurai Court is transferred to the file of Family Court at Chennai. It is made clear that both the parties should not indulge in any indecent activities, which will harm either side. Both shall maintain decency while attending the Court. If any indecent incident occurs then the parties are at liberty to approach the concerned Police Station at any point of time.

8. With the above observations, the transfer Civil Miscellaneous appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The District Family Court
at Madurai.

2.The Family Court,
Chennai.

+1cc to M/s.B.Sundar, Advocate Sr.79415 [18/11/2019]
+2cc to M/S.S.Diraviam Dinesh, Advocate Sr.78865[18/11/2019]

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srg 05/11/2019