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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.Nos.249 & 224 of 2019

Bagyalakshmi

W/o Karthikganesh

.. Petitioner in Tr.CMP
No.249/19 & Respondent
in Tr.CMP No.224/19

Vs.

Karthikganesh

S/o Kalaiselvan

.. Respondent in Tr.CMP
No.249/19 & Petitioner
in Tr.CMP No.224/19

Tr.C.M.P.No.249 of 2019 is filed under Section 24 of the Code of Civil Procedure to transfer the H.M.O.P.No.1709 of 2018 pending before the Principal Family Court, Coimbatore to the Sub Court, Thuraiyur or any other court of competent jurisdiction by appreciating the above said facts and circumstances of the case.

Tr.C.M.P.No.224 of 2019 is filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.14 of 2018 pending on the file of the Hon'ble Sub Court, Thuraiyur and transfer the same to the Hon'ble Family Court, Coimbatore.

For Petitioner/Respondent	::	Mr.P.K.Shiva Kumar
For Respondent/Petitioner	::	No appearance

ORDER

The petitioner-Mrs.Bagyalakshmi, Wife of Mr.Karthikganesh has filed Tr.C.M.P.No.249 of 2019 for an order to withdraw the H.M.O.P.No.1709 of 2018 from the file of the Principal Family Court, Coimbatore and transfer the same to the Sub Court, Thuraiyur. The respondent-Mr.Karthikganesh has also filed Tr.C.M.P.No.224 of 2019 for an order to withdraw the pending H.M.O.P.No.14 of 2018 from the file of the Sub Court, Thuraiyur and transfer the same to the Family Court, Coimbatore. After Mr.Karthikganesh has engaged Ms.M.J.Prabhavathy as his counsel, when the matter was listed before this Court, Ms.M.J.Prabhavathy,



learned counsel for the respondent submitted that she had already given change of vakalat nama. Thereafter, this Court directed the Registry to print the name of Mr.Karthikganesh in the list. Since the name of the learned counsel for the respondent has also been printed in the list in spite of giving change of vakalat nama, she requested this Court to delete her name. Since the name of the respondent/petitioner Mr.Karthikganesh has been shown, this Court is not inclined to unnecessarily adjourn the matters.

2. Learned counsel for the petitioner/respondent submitted that Mrs.Bagyalakshmi married Mr.Karthikganesh, the respondent/petitioner on 1.2.2009 at Sri Eachanari Vinayagar Temple, Malumachampatti, Pollachi Road, Coimbatore as per the Hindu rites and customs. They started leading their matrimonial life happily in a joint family along with their in-laws in Door No.2/14, Chandira Gounder Street, Machampalayam Village, Sundarapuram Post, Coimbatore Taluk. But after two years of marriage, there was no issue out of the wedlock. Therefore, they went for medical examination. It was confirmed that the petitioner/respondent was normal. But the problem was found out only from the respondent/petitioner. Due to the estranged relationship arose between them, the petitioner/wife left the matrimonial home and filed H.M.O.P.No.14 of 2018 for divorce on the file of the Sub Court, Thuraiyur and she also filed M.C.No.5 of 2018 before the learned Judicial Magistrate, Thuraiyur seeking maintenance. The respondent/husband also filed the counter affidavits in both the cases. Thereafter, he was advised to file H.M.O.P.No.1709 of 2018 before the Principal Family Court, Coimbatore for restitution of conjugal rights under Section 9 of the Hindu Marriage Act. When the respondent has filed the counter affidavit in H.M.O.P.No.14 of 2018 filed by the petitioner seeking divorce on the file of Sub Court, Thuraiyur and also one more counter affidavit before the learned



Judicial Magistrate, Thuraiyur in M.C.No.5 of 2018, the petition filed by the respondent/husband for restitution of conjugal rights on the file of the Principal Family Court, Coimbatore is only an after-thought and designed to drag on the proceedings.

3. This Court also finds merit on his submissions. The reason being that after engaging a counsel before this Court in the two transfer civil miscellaneous petitions, after receiving the change of vakalat nama from the counsel, the respondent cannot keep away from the Court's proceeding. That also shows that he has no objection for allowing the transfer civil miscellaneous petition No.249 of 2019 filed by his wife. Secondly, the distance between Coimbatore and Thuraiyur is about 250 kms. As Mrs.Bagyalakshmi being a lady is bound to undergo a huge prejudice and inconvenience by undertaking a long journey, this Court finds it fit and proper to accept her prayer. Accordingly, Tr.C.M.P.No.249 of 2019 stands allowed and the H.M.O.P.No.1709 of 2018 is withdrawn from the Principal Family Court, Coimbatore and transferred to the Sub Court, Thuraiyur. Consequently, C.M.P.No.7369 of 2018 is closed.

4. For non-appearance of the respondent after receiving the change of vakalat nama, Tr.C.M.P.No.224 of 2019 is dismissed. Consequently, C.M.P.No.6734 of 2019 is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge, Family Court, Coimbatore
2. The Subordinate Judge, Thuraiyur

+1 cc to M/s.P.K.Shiva Kumar, Advocate Sr.No. 63562

Tr.C.M.P.Nos.249 & 224 of 2019

AKM/ 27.08.19/3P-4C /