



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.300 of 2019

S.Maheshwari

..Petitioner

-vs-

D.Shankaran

..Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw the proceedings in O.S.No.5506 of 2018 on the file of the Hon'ble XVI Additional City Civil Court, Chennai and transfer the same to the Hon'ble III Additional Family Court, Chennai to be tried along with O.S.No.57 of 2018 pending there.

For Petitioner :: Mr.R.Ravindra Ram

For Respondent :: Mr.P.B.Balaji

ORDER

This transfer civil miscellaneous petition has been filed by Mrs.S.Maheshwari, former wife of Mr.D.Shankaran, since a decree of divorce was already granted on 10.11.2017. Although it is stated that an appeal in C.M.A.No.8413 of 2018 has been filed by the petitioner, the learned counsel for the respondent stated that the respondent has not till date received any notice.

2. Learned counsel for the petitioner submitted that the instant transfer civil miscellaneous petition has been filed to withdraw the proceedings in O.S.No.5506 of 2018 on the file of the XVI Additional City Civil Court, Chennai and transfer the same to the III Additional Family Court, Chennai to be tried along with O.S.No.57 of 2018.

3. However, in the affidavit filed in support of the petition, nowhere the petitioner has prayed for withdrawal of the O.S.No.5506 of 2018 from the file of the XVI Additional City Civil Court, Chennai to be transferred to the III Additional Family Court, Chennai. Even a reading of the plaint enclosed at pages 13 to 24 of the typedset of papers shows that the O.S.No.57 of 2018 has been filed by the petitioner/wife for a bare injunction on 19.12.2017 after the passing of a decree for divorce on 10.11.2017, that too, praying for injunction against



herself and it is not known why the Family Court has not dismissed such suit. Therefore, when the petitioner has not made out the prayer in the transfer civil miscellaneous petition and the prayer made in the suit in O.S.No.57 of 2018 is also against herself, this Court is not able to entertain the transfer civil miscellaneous petition. Accordingly, the transfer civil miscellaneous petition is dismissed. Consequently, C.M.P.No.8724 of 2019 is also dismissed. The request made by the petitioner's counsel for withdrawal of the petition is also rejected.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

The XVI Judge
Additional City Civil Court
Chennai.

+1cc to Mr.P.B.Balaji, Advocate, S.R.No.62252

Tr.C.M.P.No.300 of 2019

AD(CO)

RRS (29/08/2019)