

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.286 of 2019
and C.M.P. No.8361 of 2019

K.Nivetha

... Petitioner

-VS-

V.Elangovan

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the H.M.O.P. No.174 of 2018 from the file of the Subordinate Court, Kancheepuram and transfer to the Subordinate Court, Uthamapalayam and try along with the H.M.O.P. No.02 of 2019.

For Petitioner : Mr.S.Ambalavanan

For Respondent : No appearance

O R D E R

The Transfer C.M.P. has been filed to transfer the H.M.O.P. No.174 of 2018 pending on the file of the Subordinate Court, Kancheepuram to the file of the Subordinate Court, Uthamapalayam to be tried along with H.M.O.P. No.2 of 2019 pending on the file of the Subordinate Court, Uthamapalayam.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 10.11.2008 at Sundaravadivelar Thirumana Mahal, Gudalur, as per Hindu Rites and Customs and out of the wedlock, they got a female child, namely Harshita, born on 07.02.2012. In support of the prayer, learned counsel appearing for the petitioner pleaded that while the respondent started his own business, has developed illicit relationship with other girls. When the petitioner questioned the same, the respondent had beaten up the petitioner and instigated her to commit suicide with the minor child. While so, the respondent filed the H.M.O.P. No.174 of 2018 before the Subordinate Court, Kancheepuram seeking for the relief of divorce with false and frivolous allegations against the petitioner. In order to lead the matrimonial life peacefully, the petitioner filed H.M.O.P.

No.2 of 2019 before the Subordinate Court, Uthamapalayam seeking for restitution of conjugal rights.

3.Learned counsel appearing for the petitioner would further submit that as the petitioner's minor child is undergoing treatment for pancreas and kidney problem, the petitioner finds it very difficult to attend the Court at Kancheepuram for every hearing, since she would take care of her minor child. Therefore, if the H.M.O.P. No.174 of 2018 is transferred to the Subordinate Court, Uthamapalayam, no prejudice will be caused to the respondent.

4.As per the records maintained by the registry, notice was served on the respondent on 13.04.2019 and private notice has also been taken with the leave of the Court, but none appeared on behalf of the respondent.

5.Taking note of the fact that the petition in H.M.O.P. No.2 of 2019 seeking for restitution of conjugal rights, filed by the petitioner was pending before the Subordinate Court, Uthamapalayam and although notice has been served on the respondent, no one appeared on his behalf, which shows that the respondent has no objection in allowing the petition, this Court is inclined to transfer the H.M.O.P. No.174 of 2018 pending before the Subordinate Court, Kancheepuram to the file of the Subordinate Court, Uthamapalayam. Accordingly, the Tr. C.M.P. is allowed and the H.M.O.P. No.174 of 2018 pending on the file of the Subordinate Court, Kancheepuram is withdrawn and transferred to the file of the Subordinate Court, Uthamapalayam.

6.The Subordinate Court, Uthamapalayam is directed to take up both the cases and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.8361 of 2019 is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Subordinate Court, Kancheepuram.

2.The Subordinate Court, Uthamapalayam.

+1 cc to Mrs.Ambalavanan, Advocate, Sr.No. 46708

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and C.M.P. No.8361 of 2019

KS (CO)
CSL/05.07.2019



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