

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.09.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.409 of 2019

and

C.M.P.No.11046 of 2019

Kalaiselvi

..Petitioner

Vs.

K.Naveenan

...Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the petition in HMOP. No.78 of 2013 on the file of the learned Principal Sub Court, Mayiladuthurai and the same to be transferred to Family Court at cuddalore, to be tried along with HMOP. No.123 of 2018.

For Petitioner : Mr.R.Muralidharan

For Respondent : Notice served - No appearance

O R D E R

This petition has been filed to withdraw the petition in HMOP. No.78 of 2013, on the file of the learned Principal Sub Court, Mayiladuthurai and transfer to the Family Court, Cuddalore and try along with HMOP. No.123 of 2018.

2. The petitioner is the wife and the respondent is the husband. The petitioner has filed a petition under Section 13(1) (i-a) of Hindu Marriage Act in HMOP. No.78 of 2013 before the learned Principal Sub Court, Mayiladuthurai, for divorce. In the meanwhile, the respondent has filed a petition under Section 9 of the Hindu Marriage Act in HMOP. No.123 of 2018, before the Family Court, Cuddalore, for Restitution of Conjugal Rights.

3. The learned counsel for the petitioner would submit that if the case is transferred to the Family Court, Cuddalore, no prejudice would be caused to the respondent. The petition in HMOP.No.78 of 2013 filed by the husband is also pending.

4. Though notice has been served on the respondent, none appeared either in person or through his counsel on behalf of him. Therefore, this Court is inclined to dispose of the case on merits, in accordance with law.

5. Heard the learned counsel for the petitioner and perused the materials available on record. None appeared on behalf of the respondent.

6. Considering the facts and circumstances of the case, this Court is of the view that the petition in HMOP. No.78 of 2013 on the file of the Principal Sub court, Mayiladuthurai would be withdrawn and transferred to the Family Court, Cuddalore and tried along with HMOP. NO.123 of 2018, in order to avoid conflicting findings.

7. Accordingly, this petition is allowed. The Original Petition in HMOP. NO.78 of 2013, on the file of the Principal Sub Court, Mayiladuthurai is withdrawn and the same to be transferred to the Family Court, Cuddalore and tried along with HMOP. No.123 of 2018. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,
Mayiladuthurai.

2. The Judge,
Family Court, Cuddalore.

+1 cc to M/s.R.Muralidharan, Advocate Sr.No.79791

AKM/25.10.19/2P-4C /

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