

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.297 of 2019

Sumathy

... Petitioner

Vs.

S.Senthil Kumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw the case in HMOP. No.97 of 2019 on the file of the Family Court, Puducherry to IV Family Court, Chennai.

For Petitioner : Mrs.Gajalakshmi Rajendran
For Respondent : Mr.P.Dinesh Kumar for
Mr.D. Ravi Chandran

O R D E R

This Transfer Miscellaneous petition has been filed seeking to withdraw the case in HMOP. No.97 of 2019 on the file of the Family Court, Puducherry to IV Family Court, Chennai.

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between the parties on 09.11.2017 at Theerga Sumangali Thirumana Mandabam, Ariyankuppam, Pondicherry, as per Hindu Rites and Custom. After the said marriage, the couples had set up a matrimonial house at Chennai. At the time of marriage, the respondent was working at Chennai. The respondent asked the petitioner to resign the job and accordingly, she had resigned the job. Thereafter, the respondent had ill treated the petitioner in all ways. The respondent/ Husband has never used to correct his rude behaviour towards the petitioner and also not taken care of her basic needs and simply harassed the petitioner for money. Though, she has paid Rs.1,50,000/- for house hold articles and Rs.2,00,000/- for the Car, the respondent and his parents were never satisfied. Subsequently, the respondent / husband went to Malaysia for employment. When the petitioner went to the respondent's parents house for reunion, she was driven out from the matrimonial house by then. Since then, the petitioner is residing with her parents. Instead of reunion, the respondent

had filed a petition in OP. No.97 of 2019 on the file of the Family Court, Puducherry, seeking for divorce. The petitioner/wife is the resident of Chennai and she finds it difficult to travel from Chennai to Puducherry to attend the Court proceedings. Therefore, she seeks transfer of the petition filed by the husband from Puducherry to Family Court at Chennai.

3. The learned counsel for the respondent / husband submitted that the respondent is working in Malaysia and he appeared before this Court and requested this Court to refer the matter for Mediation and accordingly, it was referred for Mediation. But there has no settlement arrived at between the parties. While that being the case, the petitioner / wife had sent a notice to the employer of the respondent at Malaysia and in order to prove the same, he filed a typed set of papers which contained the said notice copies. The employer had enquired the respondent about the same which has definitely caused embarrassment to him.

4. The learned counsel for the petitioner submitted that the petitioner is willing to rejoin with the respondent. The learned counsel further submitted as per the direction of the Family Court, Chennai only, the petitioner had communicated the notice through email.

5. This Court perused the said notice sent by the petitioner to the employer of the respondent from email id sumathiperumal048@gmail.com but the authorised signatory in the email notice sent is typed as Gajalakshmi Rajendran, Advocate. As per the procedure, the Family Court directed the parties to send notices and no advocate can send such notice of hearing. This Court finds that such kind of notice being issued is an unwarranted one and if the client seeks advise to the advocate to send such kind of notice, the Advocate should refrain from doing so. Though the Family Court, Chennai, directed the petitioner to send notice of appearance to respondent, the party shall only seek the advise of the Advocate to draft the notice and Advocates need not step into the shoes of the clients. When the petitioner is eagerly willing to reunite with the respondent, should follow proper procedure as laid down by law. Hence, this Court advises the Counsel not to encourage such act of the clients.

6. The learned counsel for the respondent further states that the matter can be posted before the Sub Court at Tambaram so that he has to appear only during the Trial in the said proceedings.

7. This Court is not inclined to accept such plea made by the respondent but advises both the parties to maintain discipline and decorum before the Court. Since the petitioner being a lady and also a resident of Chennai and H.M.O.P.No.1217 of 2019 is pending before the learned 4th Additional Family Court, Chennai for restitution of conjugal rights, it will be difficult for her to attend the Court proceedings at Sub Court, Puducherry, filed by husband seeking divorce, this Court is inclined to transfer the case from Sub Court, Puducherry to learned 4th Additional Family Court at Chennai for conducting a joint trial of both HMOPs in the interest of justice to avoid conflicting judgement being passed.

8. Accordingly, HMOP. No.97 of 2019 pending on the file of Family Court, Puducherry is withdrawn and transferred to the file of the learned 4th Additional Family Court, Chennai for joint trial along with H.M.O.P.No.1217 of 2019. The Registry of the Family Court, Puducherry is directed to transmit the entire case papers in H.M.O.P.No.97 of 2019 to the learned 4th Additional Family Court, Chennai, within a period of four weeks from the date of receipt of copy of this order.

9. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To

1.The IV Additional Judge
Family Court, Chennai

2.The Judge
Family Court, Puducherry

+1 CC to Mr. Gajalakshmi Rajendran, Advocate sr 95209.

+1 CC to Mr.D. Ravichander, Advocate sr 94545

TR C.M.P. No.297 of 2019

GMR(CO)
SP(23/01/2020)