

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.C.M.P.No.434 of 2014

and

M.P.No.1 of 2014

R.Nirmala Devi ... Petitioner /Respondent

Vs.

Ramesh Babu ... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.223 of 2011 pending on the file of Principal Subordinate Court, Dindigul and to transfer the same to the file of Principal Family Court, Chennai.

For Petitioner : Mr.R.Kamaraj

For Respondent : Mr.V.P.Raju

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking for transfer of H.M.O.P.No.223 of 2011 pending on the file of Principal Subordinate Court, Dindigul, to the file of Principal Family Court, Chennai.

2. It is stated in the affidavits filed in support of these petitions that the marriage between the petitioner and the respondent was solemnized on 30.08.1993 at Sourashtra Kalyanamandapam, Nilakottai, Dindigul, as per Hindu Rites and Customs. Out of the wed-lock, a female child was born in the year 1996 who is a handicapped. Initially the petitioner and the respondent were lived in the respondent's house at Dindigul and thereafter, they came to Chennai in the year 2000 and were residing at No.5, Vinoba Nagar 6th Street, Tondiarpet, Chennai - 81. The respondent was a regular drinker and due to his activities, there was a dispute between the petitioner and respondent. As a result, the respondent left the matrimonial home in the month of June 2003, got remarried with one Geetha and settled at his own native place. The petitioner do not have any income of her own and she is depending upon her father's income who is looking after her. Her father is only a daily wage coolie worker and he is not in a position to meet the expenses for her and her handicapped child. Therefore, she

filed a maintenance petition in M.C.No.533 of 2006 on the file of the I Additional Family Court, Chennai, claiming maintenance from the respondent. That apart, she filed H.M.O.P.No.3715 of 2007 on the file of the same Court, seeking Restitution of Conjugal Rights and filed I.A.No.506 of 2008 in the said HMOP, seeking interim maintenance for her handicapped child and for her. The Interim Application was allowed on 01.07.2011. As against the same, the respondent filed C.R.P.No.4865 of 2011 before this Court and this Court granted interim stay of the order passed in I.A.No.506 of 2008.

3. It is further stated in the affidavits that the respondent has filed H.M.O.P.No.223 of 2011 on the file of Principal Subordinate Court, Dindigul, seeking divorce. Since the petitioner is residing in her parents' house at Chennai, depending upon the income of her parents and taking care of her handicapped child who is studying 6th standard, she finds difficult to travel to Dindigul to attend the hearings in H.M.O.P.No.223 of 2011 and therefore, she seeks transfer of the same to the file of Principal Family Court, Chennai, from the file of Principal Subordinate Court, Dindigul.

4. Both the counsels are present and the respective parties are also present.

5. The respondent/husband would submit that he has got married with another women, they are now living together and he has two children to take care. Further, he is doing only a Textile business i.e. Road Side Vendor and he has no permanent income. However, he is ready to take care of his handicapped child and even he is ready to pay Rs.7,50,000/- as one time settlement for the welfare of his handicapped child. But, the petitioner/wife is not willing to accept the same and still she wants to contest the case before the Family Court at Chennai.

6. As there is no compromise entered between the petitioner and the respondent, this Court is inclined to transfer the H.M.O.P.No.223 of 2011 from the file of the Principal Subordinate Court, Dindigul, to the file of the V Additional Family Court, Chennai, as per the convenience of the petitioner/wife as she is taking care of her handicapped child.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P.No.223 of 2011 pending on the file of the Principal Subordinate Court, Dindigul, is withdrawn and transferred to the file of the V Additional Family Court, Chennai. The Principal Subordinate Court, Dindigul, is directed to transfer the papers of the H.M.O.P.No.223 of 2011 immediately to the file of the V Additional Family Court, Chennai, and on receipt of the same, the V Additional Family Court is directed to dispose of the case within a period of six months from the date of receipt of

the papers as the matter is of the year 2006, and the parties are also directed to co-operate with the proceedings. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

raja

To

1. The V Additional Family Court,
Chennai.
2. The Principal Subordinate Court,
Dindigul.
3. The Principal Family Court,
Chennai.

+1cc to Mr.R.Kamaraj, Advocate, S.R.No. 79116

+2cc to Mr.S.Vinod, Advocate, S.R.No. 78640 (07/02/2020)

TR.C.M.P.No.434 of 2014
and

M.P.No.1 of 2014

BS (CO)
GN (05/12/2019)

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