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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.406 of 2019
and C.M.P.No.10963 of 2019

B.Pamila

... Petitioner/Respondent

-vs-

Dr.V.Chandra Mohan

... Respondent/Petitioner

Prayer:

Petition filed under Section 24 of C.P.C to withdraw and transfer the I.A. No.5518 of 2018 in O.P. No.1236 of 1999 pending on the file of I Additional Family Court at Chennai to the Family Court at Coimbatore.

For Petitioner : Mr.M.Nirmalkumar

For Respondent : Mrs.B.Kalarani

O R D E R

The Transfer C.M.P. has been filed to transfer the I.A. No.5518 of 2018 in O.P. No.1236 of 1999 pending on the file of the I Additional Family Court at Chennai to the file of the Family Court at Coimbatore.

2.Learned counsel appearing for the petitioner would submit that after the marriage between the petitioner and the respondent was solemnised on 29.10.1987 at Sidhaputtur, Coimbatore, a male child by name, C.Rithak yash Raj was born on 14.09.1988. According to the learned counsel appearing for the petitioner, the respondent, who was a Psychologist with defence services, retired in the year 2015. Learned counsel appearing for the petitioner would further submit that due to difference of opinion occurred between the parties, the respondent has filed a divorce petition in H.M.O.P. No.169 of 1996 before the Family Court, Coimbatore and the same was transferred to the file of the I Additional Family Court, Chennai and numbered as O.P. No.1236 of 1999. During the pendency of the issue, a compromise was reached between the petitioner and the respondent and thereafter, they started living together. In the meantime,



the said O.P. was dismissed for default on 06.06.2003. After some time, due to some difference of opinions, the petitioner left the matrimonial home and has filed D.V.A. No.23 of 2018 before the Judicial Magistrate No.1, Coimbatore seeking certain reliefs under the Protection of Women from Domestic Violence Act, 2005 and an interim order has also been passed on 06.08.2018 in CrI.M.P. No.5046 of 2018 in D.V.A. No.23 of 2018. Subsequently, the respondent filed the above I.A. No.5518 of 2018 in O.P. No.1236 of 1999 before the I Additional Family Court, Chennai seeking condonation of delay of 5555 days in filing the restoration petition with false and frivolous allegations. As the petitioner is now residing under the care of her aged father without any support from the respondent, she finds it difficult to travel to Chennai to attend the hearings and therefore, if the said I.A. No.5518 of 2018 in O.P. No.1236 of 1999 is transferred to the file of the Family Court, Coimbatore, no prejudice will be caused to the respondent.

3.Learned counsel appearing for the respondent would submit that the respondent is having eye problem and taking treatment for the same. Therefore, it is difficult for him to move from Chennai to Coimbatore.

4.This Court finds no merit in the submission made by the learned counsel appearing for the respondent. Taking note of the fact that the respondent has to appear before the Judicial Magistrate No.1, Coimbatore for conducting the D.V.A. No.23 of 2018, this Court is inclined to transfer the I.A. No.5518 of 2018 in O.P. No.1236 of 1999 pending before the I Additional Family Court, Chennai to the file of the Family Court, Coimbatore.

5.Accordingly, the Tr. C.M.P. is allowed and the I.A. No.5518 of 2018 in O.P. No.1236 of 1999 pending on the file of the I Additional Family Court, Chennai is withdrawn and transferred to the file of the Family Court, Coimbatore. No costs. Consequently, C.M.P. No.10963 of 2019 is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vga



To

1. The I Additional Family Court,
Chennai.

2. The Family Court,
Coimbatore.

+2cc to Mrs.B.Kalarani, Advocate, S.R.No.58277

+1cc to Mr.M.Nirmalkumar, Advocate, S.R.No.57876

Tr.C.M.P.No.406 of 2019
and C.M.P. No.10963 of 2019

VGII(CO)
CS/03/09/2019