

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr. CMP No.319 of 2019
and
CMP No.9355 of 2019

Divya		... Petitioner
	.Vs.	
M. Sivajothi		...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of CPC, to withdraw the G.W.O.P. No. 82 of 2019 on the file of the District Court, Thiruvallur and transfer the same to the District Court, Tuticorin.

For Petitioner : Mr.R.Rajesh Vivekananthan

For Respondent : Mr. S.M. Harikrishna.

ORDER

The petitioner-wife has prayed before this Court to withdraw the GWOP No.82 of 2019 on the file of the District Court at Thiruvallur and transfer the same to the District Court, Tuticorin.

2. The case of the petitioner is that she got married to the respondent as per Hindu Religious Customs and Rites on 04.09.2014 at Suprabha Mahal, No.22, Vellalar Street, Mogappair West, Chennai and after she got married, the respondent has started ill-treating her and provoking her without any reason and the respondent's family also joined hands with the respondent and encouraged the cruel activities of the respondent. It is stated that after the birth of the child, they have not been together and the respondent was always trying to satisfy his mother, who had possessive attachment to the respondent and was always quarrelling with the petitioner for no reason and not allowing her to take care of the child and even the child was not allowed to hug her. Due to the cruel activities of the respondent's family, who had beaten her in the month of February when she gave food to her child and dragged her out of the house, she was forced to leave to her parental

home at Kulasekarapattinam. In spite of her request, she was not taken back to the matrimonial house. Thereafter, the respondent husband filed GWOP to get the custody of the child, which is pending before the District Judge, Thiruvallur in G.W.O.P. No. 82 of 2019.

3. The Petitioner states that she is finding it very difficult to come from Kulasekarapattinam to attend the case at Thiruvallur. As the petitioner's father being an aged person, it is stated that, there is no one to accompany her and further she has to take care of her child, who is studying in LKG at CBSE school at Udandudi. The counsel for the petitioner submitted that she has changed the school now. The respondent being a male person, it will not be a problem for him to travel to the District Court at Tuticorin to attend the GWOP in the event it is being transferred.

4. The respondent's counsel filed the counter affidavit stating that the respondent was not happy as the petitioner was leading wayward life even while living at home and she would not do any household work except watching television. It is also stated that the petitioner has got some psychological problems and disputed the statement of the petitioner that she had been raised by her parents, as the fact is that she was brought up in her uncle's house from the age of 3, who had conducted the marriage of the petitioner with the respondent. The respondent has also stated that the child, who was studying in Pre-Kg in SBOA School, Anna Nagar Chennai, was kidnapped with the help of the petitioner's relatives. The respondent also submitted that the petitioner-wife need not be present always at the District Court, Thiruvallur and can be managed by an Advocate and she has to be present only at the time of trial/enquiry. The respondent further submits that he has got admission for his son in L.K.G in SBOA School (CBSE) in Chennai, which is the best school among top 20 schools in India. He further states that it is admitted by the petitioner that she is surviving with the help of her father, which will be the burden to the petitioner's father. Hence, it is stated that the respondent is in a better position to bring up his child. The mental condition of the petitioner has been narrated in the said GWOP and clearly pointed out the cruelties committed by the petitioner and her parents and relatives, who had assaulted the respondent's mother and taken away the child. The respondent also submits that the petitioner has skin disease, due to which the child was not allowed to hug her as the skin problem would spread over the boy's body and she was taking treatment for the same. According to him, no proper reason has been given for transferring the GWOP from Thiruvallur to Tuticorin.

5. It is seen from the averments in the counter that the petitioner is having some psychological problem and respondent has taken the same as the ground for getting the custody of the child from the wife in the GWOP. That being the case, it is not proper on the part of the husband to conduct the case at Tiruvallur, instead it will be heard at the place where the petitioner is residing. The counsel for the respondent submitted that instead of Tuticorin, it may be tried at Tirunelveli, as Tuticorin and Tirunelveli are at the same distance from Kulasekarapattinam. The counsel appearing for the petitioner agrees for the same.

6. Hence, this Court is inclined to transfer the GWOP No.82 of 2019 pending on the file of the District Court at Thiruvallur, to the District Court at Tirunelveli. Accordingly, GWOP No.82 of 2019 pending on the file of the District Court at Thiruvallur, is transferred to the District Court at Tirunelveli. The Parties are directed to cooperate in this matter. Accordingly, the Transfer Civil Miscellaneous Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

bga

To

1. District Court,
Thiruvallur.

2. District Court,
Tirunelveli.

+1cc to Mr.R.Rajesh Vivekananthan, Advocate, S.R.No. 81671

+2cc to Mr.S.M.Harikrishna, Advocate, S.R.No. 81347

Tr. CMP No.319 of 2019

CP(CO)

GN(30/10/2019)