

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.318 of 2019
and C.M.P. No.9333 of 2019

Sunny Stiffy

... Petitioner

-vs-

S.Govind

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the I.D.O.P. No.533 of 2019 on the file of the III Additional Family Court, Chennai and transfer the same to the Subordinate Court, Poonamallee for joint trial with H.M.O.P. No.367 of 2017 pending there.

For Petitioner : Mr.S.Parthasarathy

For Respondent : No appearance

O R D E R

The Transfer C.M.P. has been filed to transfer the I.D.O.P. No.533 of 2019 pending on the file of the III Additional Family Court, Chennai to the file of the Subordinate Court, Poonamallee for joint trial with H.M.O.P. No.367 of 2017.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 07.10.2013 at No.16, 2nd Lane Beach Road, Chennai-1, as per Hindu Rites and Customs. In support of the prayer, learned counsel for the petitioner pleaded that since the respondent has already married with one Samtha, who has one male child through the respondent, after coming to know the same, the petitioner lodged a complaint before the Commissioner of Police, Chennai on 24.03.2017 and also filed a petition in H.M.O.P. No.367 of 2017 before the Sub Court, Poonamallee to declare the marriage performed between the petitioner and the respondent as null and void. In order to further harass the petitioner, the respondent filed a petition in I.D.O.P. No.533 of 2019 before the III Additional Family Court, Chennai for restitution of conjugal rights. Learned counsel appearing for the petitioner

would further submit that as the petitioner finds it difficult to travel alone to attend the Court proceedings, which is a long journey from her residence, she was advised to file the petition and therefore, if the I.D.O.P. No.533 of 2019 is transferred to the Subordinate Court, Poonamallee, no prejudice will be caused to the respondent.

3.Learned counsel appearing for the petitioner submitted that he has taken private notice on the respondent to the address given by the respondent in I.D.O.P. No.533 of 2019 before the III Additional Family Court, Chennai.

4.Affidavit of service filed by the learned counsel appearing for the petitioner shows that the registered cover sent to the respondent has been returned with an endorsement 'addressee has left/has refused to receive/has not claimed'. Although fresh notice as well as private notice have been taken with the leave of the Court, none appeared on behalf of the respondent either by engaging counsel or by himself.

5.Taking note of the fact that the petition in H.M.O.P. No.367 of 2017 filed by the petitioner seeking divorce was pending before the Subordinate Court, Poonamallee and in spite of notice, no one appeared on behalf the respondent, which shows that the respondent has no objection in allowing the petition, this Court is inclined to transfer the I.D.O.P. No.533 of 2019 pending before the III Additional Family Court, Chennai to the file of the Subordinate Court, Poonamallee. Accordingly, the Tr. C.M.P. is allowed and the I.D.O.P. No.533 of 2019 pending on the file of the III Additional Family Court, Chennai is withdrawn and transferred to the file of the Subordinate Court, Poonamallee for joint trial with H.M.O.P. No.367 of 2017.

6.The Subordinate Court, Poonamallee is directed to take up both the cases and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.9333 of 2019 is closed.

vga

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The III Additional Family Court,
Chennai.

2.The Subordinate Court,
Poonamallee.

+1cc to Mr.S.Parthasarathy, Advocate, SR.No.46463

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Kak(12/07/2019)



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