

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.497 of 2017

M.Dharmalakshmi .. Petitioner

-vs-

S.Muthu .. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.1854 of 2017 on the file of III Additional Family Court, Chennai and transfer the same to the Chief Judicial Magistrate, Tirunelveli and clubbed with M.C.No.3 of 2016.

For Petitioner :: Mr.S.V.S.Ilamvazhuthi

For Respondent :: Mr.R.Venkatraman

ORDER

Mrs.M.Dharmalakshmi, Wife of Mr.S.Muthu, the respondent herein has come to this Court seeking an order to withdraw the H.M.O.P.No.1854 of 2017 from the file of III Additional Family Court, Chennai, which has been filed by the respondent/husband under Section 13(1)(ia) of the Hindu Marriage Act, 1955 seeking divorce and transfer the same to the Family Court at Tirunelveli, because the petitioner has also filed M.C.No.3 of 2016 before the learned Chief Judicial Magistrate, Tirunelveli, so that both the matters can be clubbed together for common trial, if necessary.

2. Learned counsel for the petitioner submitted that the petitioner is having a son aged about 9 years, who is now studying Third Standard in St.John's Nursery and Primary School. Secondly, the maintenance case filed by the petitioner before the learned Chief Judicial Magistrate, Tirunelveli has to be contested by the respondent. Therefore, if the H.M.O.P.No.1854 of 2017 is withdrawn from the III Additional Family Court, Chennai and transferred to the Family Court at Tirunelveli, it will be convenient to the respondent also to contest both the cases at Tirunelveli.

3. A detailed counter affidavit has been filed by the respondent. The learned counsel for the respondent stated that there is a threat from the petitioner's family, therefore, instead of transferring the matter from Chennai to Tirunelveli, it can be transferred to any of the Courts at Tiruchendur.

4. But the prayer of the respondent cannot be entertained for two reasons. Firstly, when the petitioner has filed M.C.No.3 of 2016 before the learned Chief Judicial Magistrate, Tirunelveli, the respondent has not asked for transfer on the ground of threat received by him. Therefore, he has to appear before the learned Chief Judicial Magistrate, Tirunelveli. When he has to appear before the learned Chief Judicial Magistrate, it goes without saying that there is no threat. Secondly, the petitioner is also having a son aged about 9 years, who is now studying Third Standard in St.John's Nursery and Primary School at Tirunelveli. For these reasons, the H.M.O.P.No.1854 of 2017 is withdrawn from the file of the III Additional Family Court, Chennai and transferred to the Family Court at Tirunelveli. Accordingly, the transfer civil miscellaneous petition stands disposed of. Consequently, C.M.P.No.10193 of 2017 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The III Additional Family Court Judge
Chennai

2. The Judge, Family Court
Tirunelveli

+1 cc to Mr.R.Venkatraman, Advocate Sr.No.66419

+1 cc to M/s.S.V.S.Ilamvazhuthi, Advocate Sr.No. 65566

AKM/13.09.19/2P-5C /

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