

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.442 of 2019
and Tr.C.M.P.No.12534 of 2019

G.V. Varalakshmi

... Petitioner

-vs-

S. Venkatesh Guptha

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw HMOP No.442 of 2018 pending on the file of Family Court, Salem and transfer the same to Sub Court, Gobichettipalayam.

For Petitioner : Mr.D. Jaganathan

For Respondent : Mr.T. Saravanan

O R D E R

Mrs.G.V.Varalakshmi, Petitioner herein, wife of S. Venkatesh Guptha/respondent herein, has come to the court seeking to withdraw HMOP No.442 of 2018 pending on the file of Family Court, Salem and transfer the same to Sub Court, Gobichettipalayam, Erode District.

2. The learned counsel for the petitioner submitted that the petitioner is having 15 years old female child and the distance between these two places is about 400 kms, and the journey cannot be undertaken either alongwith with the child or leave the child alone at home. It also takes 6 hours journey by Road. The learned counsel also submitted that the petitioner is ready for re-union while so, there is no need for contesting the case for divorce, filed by her husband. Adding further he has also stated the daughter of the petitioner/wife is also put to great prejudice if the petitioner is compelled to appear before

the Court at Salem, since the parents of the petitioner/wife passed way and the petitioner and her female child are staying alone. Therefore, the present petition is filed seeking for the above relief.

3. Counter affidavit has been filed. The learned counsel for the respondent/husband opposed the prayer by stating that the petitioner/wife was doing business of sale of artificial jewels, grocery through multilevel marketing and was also doing tailoring business and she is an Income Tax Assessee and has PAN Account and regularly filing income tax returns. Since the petitioner/wife earns more than the respondent/husband, she used to tease the respondent. Now, the puberty function of the petitioner's daughter was held by the petitioner without allowing the respondent/husband to participate in the function. She is in a habit of frequently cutting herself with knife and threaten the respondent that she will also stab the respondent and the respondent spent Rs.2,25,000/- towards her medical expenses and therefore, it is a big challenge to live with the petitioner/wife. Moreover, there is a panchayat for a settlement, where the petitioner/wife accepted for the settlement, but later on she back tracked and hence the respondent/husband filed a petition for divorce on 13.08.2000. He further submitted that since there is no cohabitation between them from the year 2013, the matrimonial life has become meaningless and further submitted that the petitioner and her daughter are staying with petitioner's brother and they are not staying alone. Therefore, he prays for dismissal of the petition.

4. This Court finds that there is merit in the submission made by the learned counsel for the petitioner/wife. Since the distance between two places is about 400 kms. The petitioner/wife is staying with her 15 years old female child and hence it is difficult for her to leave her alone every time to attend the hearing of the case. Considering the fact that balance of convenience is in favour of the wife, this court is inclined to accede to the request of the transfer. Hence, the Transfer CMP is allowed.

5. Accordingly, the Tr.C.M.P. is allowed and the H.M.O.P.No.442 of 2018 pending on the file of Family Court, Salem is withdrawn and transferred to the file of Sub Court, Gobichettipalayam, Erode.

6. The learned Judge, Family Court, Salem is directed to send the entire records relating to HMOP No.442 of 2018 to the Sub Court, Gobichettipalayam, Erode Distract forthwith and the learned Subordinate Judge, Gobichettipalayam is directed to take up HMOP.442 of 2018 and dispose of the same within a period of six months from the date of receipt of a copy of this

order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Judge, Family Court,
Salem

2.The Subordinate Judge,
Gobichettipalayam, Erode District.

+1cc to Mr.D. Jaganathan, Advocate Sr.76345

+1cc to Mr.T. Saravanan, Advocate SR.75321

Tr. C.M.P. No.442 of 2019

SPD(CO)
CB(17/10/2019)