

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2019

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP.No.510 of 2019
and
CMP.No.14079 of 2019

S.Jothi

... Petitioner

Versus

S.Vijayakumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.219 of 2018 pending on the file of the learned Subordinate Judge, Uthampalayam and transfer the same to the file of the Family Court, Erode.

For Petitioner : Mr.T.Gowthaman

For Respondent : Notice served - No appearance

O R D E R

The petitioner/wife has filed this petition, seeking to withdraw H.M.O.P.No.219 of 2018 pending on the file of the learned Subordinate Judge, Uthampalayam, Theni District and transfer the same to the Family Court at Erode.

2. The case of the petitioner is that the marriage between the petitioner and the respondent was solemnized on 28.01.2018 at Sri Vasavi Mahal, Cumbum, Theni District, as per Hindu Rites and Customs. At the time of marriage proposal itself, the petitioner was working as Junior Assistant in Tamil Nadu Education Subordinate Services, Erode. The respondent was employed in Annai College of Education for Women, Anaimalaiyarpatti, Theni District. After marriage, the petitioner and the respondent were living at Erode as the petitioner was working there. The respondent, however, started pressurizing her to get transferred from Erode to Theni District as she being a Government Servant, is easier for her to change the Department and come to Theni District.

3. The petitioner would further submit that she had been presented with gold ornaments by her parents which were taken away by her husband and her in laws, stating that they had loan for performing marriage, for which they sold the same. The petitioner was subjected to cruelty by the respondent and her parents and they have also repeatedly demanded more dowry. There was always some kind of cruel acts caused by the husband. The respondent continued to humiliate the petitioner through out. The Petitioner was bearing all these hoping that her marriage has to be sustained and the respondent will change. But the respondent filed a petition in H.M.O.P.No.219 of 2018 before the learned Subordinate Judge, Uthamapalayam against the petitioner seeking restitution of conjugal rights. The petitioner has conceded that the respondent has falsely alleged that the petitioner and her family has ill treated him.

4. The petitioner would further contend that the respondent has averred many facts which are only fake. In spite of these allegations, the petitioner is ready and willing to join with the respondent to continue her relationship. Even though the petitioner is employed she is in support of her parents and she is not in a position to travel from Uthamapalayam or engage a counsel for hearings. Being a lady, it is not possible for her to visit Uthamapalayam and manage the Court proceedings and made the expenses and traveling alone. The petitioner is mentally and physically exhausted on account of harassment on the hands of the respondent and his parents. It would not be possible for her to attend the hearings at Uthamapalayam without anybody accompanying her. Hence the learned counsel for the petitioner seeks transfer of the case from the Subordinate Court, Uthamapalayam to the Family Court, Erode.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. It is seen from the records that the petitioner has filed the transfer CMP on 30.04.2019. This Court ordered notice to the respondent on 08.07.2019. The respondent was served on 22.08.2019. Private Notice was served on 20.07.2019. Thereafter the matter listed on 04.09.2019. This Court directed the Registry to verify any vakalat has been filed on behalf of the respondent and any Advocate has entered into appearance on behalf of the respondent, if so, name of the Advocate was directed to be printed in the cause list. The matter was adjourned to be posted on 06.09.2018.

7. Today, when the matter is called, none appeared on behalf the sole respondent and no vakalat has also been filed by the respondent. Hence, the matter is been decided in the absence of the respondent or his counsel. It is seen from the petition that

the respondent is aware that the petitioner is residing at Erode and working as Junior Assistant.

8. Considering the above facts and circumstances and also considering the convenience of the wife in respect of the place where she resides, this Court deems it fit to transfer the said HMOP.NO.219 of 2018 pending on the file of the Subordinate Judge, Uthamapalayam, to the file of the Family Court, Erode.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and HMOP. No.219 of 2018 pending on the file of the Subordinate Court, Uthamapalayam is withdrawn and transferred the same to the file of the Family Court, Erode. No Costs. Consequently, connected Miscellaneous Petition is closed.

rli

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Court,
Uthamapalayam.
2. The Judge, Family Court,
Erode.

+1cc to Mr.T.Gowthaman, Advocate, SR.No.77790

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Kak(30/10/2019)