

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.C.M.P.No.424 of 2019

and

C.M.P.No.12050 of 2019

N.Rekha

... Petitioner

Vs.

R.Selvam

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer H.M.O.P.No.783 of 2019 pending on the file of Hon'ble I Additional Family Court, Chennai to Principal Sub-Court, Vellore.

For Petitioner : Ms.S.Savithiri
for Mr.H.Krishnaraj

For Respondent : Mr.S.Madhusudanan

ORDER

The petitioner has filed this petition, seeking transfer of H.M.O.P.No.783 of 2019, pending before the I Additional Family Court, Chennai to Principal Sub-Court, Vellore, to be tried along with H.M.O.P.No.31 of 2019, filed for restitution of conjugal rights by the petitioner/wife.

2.The case of the petitioner is that she got married to the respondent on 05.07.2018 as per Hindu rites and customs at Saroja Shanmugam Thirumana Mandabam, Santhavasal, Katpadi, Vellore District. Further that, within 10 days of the matrimonial life, the respondent has left her in her parents house on 16.07.2018 and after that, there is no contact at all between the parties.

3.The respondent/husband has filed H.M.O.P.No.783 of 2019 before the I Additional Family Court, Chennai stating that the petitioner/wife is mentally ill and that on 10.08.2018, when the respondent went to fetch the petitioner/wife from her house, it was learned that she had gone to CMC hospital, Vellore for treatment and when enquired with the doctors therein, he came to know that the petitioner/wife is mentally ill and that she is not fit for the matrimonial life and the same was already known to the family members of the petitioner herein. Further that, concealing the same, they have married her to the respondent herein.

4.The petitioner/wife denies all the allegations as false and frivolous and she has filed a petition under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights from her husband/respondent and the husband/respondent has not shown any interest in taking her back. Further, the petitioner states that she has filed a petition for restitution of conjugal rights before the Principal Sub-Court, Vellore and that her husband/respondent has entered appearance through his advocate and that the matter was posted for mediation. However, the mediation did not fructify. Therefore, the petitioner prays for transferring H.M.O.P.No.783 of 2019 pending before the I Additional Family Court, Chennai to the Principal Sub-Court, Vellore to be tried along with H.M.O.P.No.31 of 2019, so that multiplicity of proceedings can be avoided.

5.The learned counsel for the petitioner submitted that since the petitioner is not employed and has no independent income, she cannot even meet out the travel expenses to attend the Court proceedings at Chennai and she needs somebody's help to travel a long distance from Vellore to Chennai and then, return to Vellore.

6.The learned counsel for the respondent submitted that the matter can be transferred to any other Court in between Vellore and Chennai and that Kanchipuram would be convenient place.

7.On perusing the records, it is seen that the respondent himself has averred that the petitioner is mentally ill and that, such being the case, it will not be wise to ask the wife to travel from Vellore to Chennai. Hence, in view of the above facts and circumstances, this Court is of the view that H.M.O.P.No.783 of 2019 pending before the I Additional Family Court, Chennai has to be transferred to Principal Sub-Court, Vellore and tried along with H.M.O.P.No.31/2019, filed by the petitioner/wife.

8.Accordingly, the Transfer Civil Miscellaneous Petition is disposed of and consequently, H.M.O.P.No.783 of 2019, filed by the respondent/husband, pending before the I Additional Family Court, Chennai shall be withdrawn and transferred to Principal Sub-Court, Vellore and tried along with H.M.O.P.No.31/2019, filed by the petitioner/wife. No costs. Consequently, the connected miscellaneous petition is also closed.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. I Additional Family Court, Chennai
2. The Judge, Family Court, Vellore.

TR.C.M.P.No.424 of 2019
and
C.M.P.No.12050 of 2019

AD(CO)
SP(25/11/2019)