

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.495 of 2019

M.Sri Shakthi Jenova .. Petitioner/Respondent

-vs-

K.O.Nallasamy .. Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.57 of 2017 pending on the file of the Sub Court at Gobichettipalayam and transfer the same to the Sub Court, Poonamallee.

For Petitioner :: Ms.K.Jenitha

For Respondent :: Mr.K.Soundararajan

ORDER

Mrs.M.Sri Sakthi Jenova, Wife of K.O.Nallasamy, the respondent herein has come to this Court seeking an order to withdraw the H.M.O.P.No.57 of 2017 filed by the respondent/husband for divorce from the Sub Court, Gobichettipalayam and transfer the same to the Sub Court, Poonamallee.

2. Learned counsel for the petitioner submitted that after the marriage was solemnized on 6.12.2013 between the petitioner and the respondent, after living for sometime, they could not lead a peaceful matrimonial life. Therefore, the respondent has filed H.M.O.P.No.57 of 2017 for divorce and the same is pending on the file of Sub Court, Gobichettipalayam, which is 431 kms., away from the petitioner's residence at Kundrathur coming under the jurisdiction of Sub Court, Poonamallee. Besides, the petitioner is also undergoing treatment for hernia and uterus problem at Sri Ramachandra Medical Centre, Porur. The learned counsel has also produced the diagnostic report showing that the petitioner has been taking treatment for these problems till 13.7.2019. In view of the long distance coupled with the physical problems faced by the petitioner, she has been advised to come to this Court seeking transfer as prayed for.

3. A counter affidavit has been filed by the respondent. The learned counsel for the respondent submitted that the petitioner also has filed M.C.No.8 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur. When the petitioner can travel to the Court of District Munsif-cum-Judicial Magistrate, Sriperumbudur, she can always undertake the journey from Kundrathur to Chennai. Therefore, the prayer for transfer should be rejected, he pleaded.

4. In reply, the learned counsel for the petitioner submitted that the distance between Kundrathur to Poonamallee is only about 10 kms., and again the Court of District Munsif-cum-Judicial Magistrate, Sriperumbudur is about 20 kms., from her residence. Therefore, if the M.C.No.8 of 2019 is withdrawn from the Court of District Munsif-cum-Judicial Magistrate, Sriperumbudur and transferred to the Court of the Judicial Magistrate, Poonamallee, both the parties can appear before the Courts at Poonamallee.

5. The learned counsel for the respondent also suggested alternatively that the M.C.No.8 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur may be withdrawn and transferred to the Family Court at Chennai.

6. But this Court, taking note of three vital aspects, namely, (i) that the petitioner is staying at Kundrathur, which is about 10 kms., away from the Sub Court, Poonamallee, (ii) that the petitioner is facing health problems and (iii) that she has also agreed for withdrawal of the M.C.No.8 of 2019 from the file of the District Munsif-cum-Judicial Magistrate, Sriperumbudur and for transfer of the same to the learned Judicial Magistrate No.II, Poonamallee, is inclined to accept the prayer for transfer. Accordingly, the H.M.O.P.No.57 of 2017 filed by the respondent is withdrawn from the file of Sub Court, Gobichettipalayam and transferred to the Sub Court, Poonamallee for expeditious disposal. Similarly, accepting the prayer of both parties, the M.C.No.8 of 2019 is withdrawn from the file of the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur and transferred to the Court of the learned Judicial Magistrate No.II, Poonamallee for expeditious disposal. The transfer civil miscellaneous petition stands allowed. Consequently, C.M.P.No.13840 of 2019 stands closed.
Speaking/Non speaking order

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge
Gobichettipalayam
2. The Subordinate Judge
Poonamallee
3. The District Munsif-cum-Judicial Magistrate
Sriperumbudur
4. The Judicial Magistrate No.II
Poonamallee

+lcc to Ms.K.Jenitha, Advocate sr.70277

+lcc to Mr.K.Soundararajan, Advocate sr.70339

Tr.C.M.P.No.495 of 2019

vgI(co)
nr 01/10/2019