

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.11.2019

Coram:

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

Transfer CMP No.456 of 2019
and
C.M.P.No.12983 of 2019

Deepika.N ... Petitioner

Versus

Pradeep Raj ... Respondent

PRAYER: This Transfer Civil Miscellaneous petition is filed under Section 24 of the Civil Procedure Code with a prayer to pass an order to withdraw and transfer IDOP.No.202 of 2018 on the file of the Principal District Court at Thoothukudi to the file of the Principal Judge, Family Court at Chennai for disposal in accordance with law.

For Appellant : Ms.B.S.Ajeetha for
Mr.Saravana Vel.J

For Respondent : Mr.R.Venkatachalapathy

ORDER

The petitioner herein is the wife who has filed this Transfer Civil Miscellaneous Petition seeking withdrawal of IDOP.No.202 of 2018 on the file of the Principal District Court, Thoothukudi and to transfer the same to the file of the Principal Family Court, Chennai.

2.The case of the petitioner is that she got married to the respondent on 28.01.2014 at Pentecostal Mission at Anna Nagar, Chennai and it was an arranged marriage. Later a reception was held at the Laity Institute Auditorium, Kilpauk, Chennai on the same evening. Thereafter, the petitioner and the respondent were living in Thoothukudi. It is further the case of the petitioner that the respondent's mother had caused severe cruelties to the petitioner, which culminated in the respondent taking the petitioner back to her parent's house during November 2014, promising to take her back after three months. But, the

respondent never kept his promise and never took her back to the matrimonial house.

3.Further, several mediation talks were held between the parties but, the respondent insisted that the petitioner should abide by the terms of his mother. It is also submitted that the petitioner has presently enrolled for PHD doctoral studies in Dr.MGR Educational and Research Institute(Deemed to be University) at Maduravoyal in Chennai. The said course commenced from May 2016 and the duration of the course is 6 years and will be completed in 2022.

4.further, the respondent/husband had filed IDOP.No.202 of 2018 before the Principal District Court, Thoothukudi seeking for divorce on the grounds of cruelty and desertion. The petitioner was served with notice for appearance on 09.01.2019 and she has engaged an advocate to appear on her behalf. Since the case is pending in Thoothukudi which is more than 750 Kms from Chennai and since the petitioner is doing doctoral studies in Chennai and further, she has no other source of income and is totally under the care and custody of her father, she prays that I.D.O.P.No.202 of 2018 filed by the respondent before the Principal District Court, Thoothukudi has to be transferred to the Principal Family Court, Chennai, which will be more convenient to her as she is residing in Mogappair and is doing her doctoral studies at Maduravoyal.

5.The learned counsel for the petitioner submitted that no prejudice will be caused to the respondent if I.D.O.P.No.202 of 2018 is transferred to the Principal Family Court, Chennai. He also submitted that the petitioner is also taking steps to file a petition for restitution of conjugal rights before the Family Court, Chennai since the marriage took place within the jurisdiction of the Chennai Family Court at Anna Nagar. In fact, the petitioner has taken several steps to reunite with the respondent through her counsel at Thoothukudi but, the respondent is not willing for any compromise and hence, the petitioner is constrained to file this petition seeking for transfer of I.D.O.P.No.202 of 2018 from the Principal District Court, Thoothukudi to the Principal Family Court, Chennai.

6.The learned counsel for the respondent submits that the petitioner has completed her full time PHD doctoral studies, which is only for 3 years and for the other three years, it is only optional to attend the college and she can freely travel to Thoothukudi. He also suggested that the case can be held in Madurai or Chengalpattu, for which the petitioner's counsel objected and stated that for travelling to Chengalpattu the petitioner has to take different buses and it will be difficult for her to attend the case in Chengalpattu.

7.It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another].

8.Therefore, this Court is inclined to allow the Transfer Civil Miscellaneous Petition and the Principal District Court, Thoothukudi is directed to withdraw I.D.O.P.No.202 of 2018 pending before the Principal District Court, Thoothukudi and transfer the same to the Principal Family Court, Chennai within a period of four weeks from the date of receipt of a copy of this order.

9.The learned counsel for the respondent prays for issuing a direction to the Principal Family Court, Chennai to dispose of I.D.O.P.No.202 of 2018 within a time frame.

10.This Court is not inclined to issue any such direction to the concerned Family Court. However, the respondent is at liberty to file a petition before the Court concerned seeking for early disposal of I.D.O.P.No.202 of 2018. No costs. Consequently, the connected civil miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The District Judge,
Principal District Court, Thoothukudi.

2.The Judge,
Principal Family Court, Chennai.

+1cc to Mr.J.Saravanavel, Advocate Sr.93934
+1cc to Mr.A.Sikkandar, Advocate Sr.95670

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vgI[co]
srg 06/02/2020