

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.472 of 2019
and
C.M.P.No.13271 of 2019

Vanmathy

... Petitioner

Vs.

Sathish Kumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer MOP. No.379 of 2016 pending on the file of the Family Court, Puducherry to any other Family Court, Chennai.

For Petitioner : Mr.M.V.Venkataseshan

For Respondent : Mr.R.Sreedhar

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw MOP. No.379 of 2016, on the file of the Family Court, Puducherry and to transfer the same to any other Family Court, Chennai.

2. The Respondent and the petitioner are the husband and wife. The marriage between the parties was solemnized on 11.09.2000 as per Hindu Rites and Custom. After marriage, the respondent set up the matrimonial home at Puducherry. In the wedlock, two children viz., Sivaramakrishnan and Lathika were born. Suddenly, the respondent had developed a drinking habit and thereafter, he started to harass the petitioner and beat her frequently and he has driven the petitioner out of the matrimonial home and he refused to send the children with the petitioner. Subsequently, the respondent filed a petition in MOP. No.379 of 2016 for dissolution of marriage before the Family Court, Puducherry. The petitioner/wife is the resident of Triplicane, Chennai. She finds it difficult to travel from Chennai to Puducherry to attend the Court proceedings.

Therefore, she seeks transfer of the divorce petition filed by the husband, from Puducherry to any one of the Family Court, Chennai.

3. The learned counsel for the petitioner/wife would submit that now the petitioner is living at Chennai along with her aged parents. She is unemployed and the respondent has not given money for her livelihood. It is very difficult for her to travel alone from Chennai to Pudhucherry and she has to travel about 160 kms., which will take nearly five hours to attend the Court. Therefore, it will be appropriate to transfer the case filed by her husband from Puducherry to Family Court, Chennai.

4. The learned counsel for the respondent/husband would submit that the respondent denied all the allegations made by the petitioner and he did not have the habit of drinking and he never harassed or beaten the petitioner. The petitioner always demanded money from the respondent for which she picked up quarrel frequently. She left the matrimonial home on her own, without considering the welfare of children and their education. The respondent alone is taking care of the children from the year 2016 and they are studying in school. Further, the respondent is working at Puducherry. On the days of Court hearings, he would apply for one day leave. If the case is transferred to Chennai, he would be forced to take leave for a couple of days. This would be an additional burden for the respondent and it is not possible for the respondent to leave the children alone and travel to Chennai for attending the Court proceedings. The Petitioner is unemployed and therefore, she can very well attend the Court proceedings in Puducherry and no prejudice would be caused to her. The learned counsel for the respondent would further submit that he is willing to bear the to and fro charges for the petitioner. Hence, he prays to dismiss this petition.

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

6. It is seen from the records that the children are under the custody of the father and they are going to school and the respondent is taking care of the children. The respondent has admitted that the petitioner is unemployed and he has accepted to pay her travelling expenses.

7. Considering the above facts narrated by both the parties, this Court is not inclined to transfer the case from Family Court, Puducherry to Family Court, Chennai. The respondent is directed to pay a sum of Rs.500/- (Rupees Five Hundred only) per day to the petitioner for travelling expenses on each hearings.

8. With the above directions, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.The Family Court, Puducherry.

2.The Family Court,
Chennai.

+1 CC to Mr.V. Venkatasreshan, advocate sr 80056.

+1 CC to Mr.R.Sreedhar, Advocate sr 80161.

TR C.M.P. No.472 of 2019
and
C.M.P.No.1327 of 2019

SS(CO)
SP(02/12/2019)