

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.192 of 2018 and
CMP.No.4982 of 2018

Nachammai.N

.. Petitioner

vs.

1. Sathappan

2. Vijay

... Respondents

Civil Miscellaneous Appeal filed under Section 24 of C.P.C. Seeking to withdraw the F.C.O.P.No.134 of 2016 pending on the file of the Family Court, Salem and to transfer the same to the Family Court, Chennai.

For Petitioner : Ms.T.Gnana Banu

For 1st respondent : Mr.P.Jagadeesan

JUDGMENT

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw FCOP.No.134 of 2016, filed by the 1st respondent husband, before the Family Court, Salem and to transfer the same to the Family Court, Chennai on the ground that the distance between Salem to Chennai is about 330 kms. which is impossible for the petitioner-wife to come and attend the court hearings.

2. Reiterating the averments in the affidavit filed in support of the petition, the learned Counsel for the petitioner seeks a direction from this Court to withdraw the FCOP.No.134 of 2016, filed by the 1st respondent husband, before the Family Court, Salem and to transfer the same to the Family Court, Chennai.

3. Opposing the above prayer, Mr.P.Jagadeesan, learned Counsel appearing for the 1st respondent husband urged this Court to dismiss the present Transfer CMP on the ground that the petitioner herein has come to this Court with ugly hands ad she had already agreed for settlement before the Family Court, Salem and as a part of settlement, Rs.6,00,000/- has already been paid to her by the 1st respondent husband and the same was also

received by her through two Demand Drafts, namely, 013073 for Rs.3,00,000/- dated 07.09.2017 and 013076 for Rs.3,00,000/- dated 08.09.2017- both drawn on Indian Overseas Bank, Salem Main Branch and thereafter, the petitioner herein along with the respondent husband have also filed a Memo dated 09.09.2017 to that effect before the Family Court, Salem. The learned Counsel further added that thereafter, the petitioner along with the 1st respondent herein have filed another memo on the same date before the trial court and in view of the compromise arrived at between the parties that the petitioner has agreed that the custody of the two minor children will always be with the 1st respondent husband and after receiving the entire amount of Rs.6,00,000/- towards full and final settlement towards maintenance, the petitioner ought not to have come to this Court. Hence, the present Transfer CMP has to be dismissed.

4. I also agree with the submission made by the learned Counsel appearing for the 1st respondent. The reason being that when the petitioner and the 1st respondent herein have filed a Joint Memo dated 09.09.2017 before the Judge, Family Court, Salem and prayed for a decree dissolving the marriage which took place on 05.09.1997 and also filed another memo dated 09.09.2017 after receiving Rs.6,00,000/- towards full and final settlement of maintenance and also stating that the custody of their two children will always be with the 1st respondent husband, it is highly improper on the part of the petitioner-wife to come to this Court seeking transfer. Therefore, restraining from imposing costs on the petitioner wife, the present Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar (CJ CONF)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

The Judge, Family Court, Salem.

+1 cc to Mr.P.Jagadeesan, Advocate, Sr.No. 52126

Tr.CMP.No.192 of 2018

PA (CO)
CSL/30.07.2019