

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.282 of 2018
and C.M.P. No.7164 of 2018

Rajalakshmi

... Petitioner

-VS-

K.Muthukaruppan

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the H.M.O.P. No.344 of 2017 pending on the file of the Principal Sub Court, Trichy and order transfer the same to Sub Court at Mannargudi and to be tried along with H.M.O.P.No.176 of 2017 pending on its file.

For Petitioner : Mr.J.Nandagopal

For Respondent : Mr.A.P.Sathyamoorthy

O R D E R

Rajalakshmi, wife of one K.Muthukaruppan, respondent herein, has come to this Court seeking transfer of H.M.O.P. No.344 of 2017 pending on the file of the Principal Sub Court, Trichy to the file of the Sub Court, Mannargudi, where the petitioner has filed the H.M.O.P. No.176 of 2017 for restitution of conjugal rights.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 18.08.2013 at A.K.S. Thirumana Mahal, Gopalamudhiram North Main Road, Mannargudi Town, Tiruvarur District, as per Hindu rites and customs and out of the wedlock, they got a male child on 18.08.2014. According to the learned counsel appearing for the petitioner, although birth of the child was informed to the family members of the respondent, neither the respondent nor his parents visited the child. While so, the respondent has filed a divorce petition in H.M.O.P. No.344 of 2017 under Section 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act before the Principal Sub Court, Tiruchirappalli making false allegations against the petitioner. In order to lead peaceful life, the petitioner has filed a

petition in H.M.O.P. No.176 of 2017 before the Sub Court, Mannargudi for restitution of conjugal rights. Learned counsel appearing for the petitioner would further submit that it is difficult for the petitioner along with child to travel from Mannargudi to Trichy for every hearing, which is about 3 hours journey. Therefore, if the H.M.O.P. No.344 of 2017 is transferred to the Sub Court, Mannargudi, no prejudice will be caused to the respondent.

3.Learned counsel appearing for the respondent seeks time to file counter. He would submit that whenever the respondent appears before the Sub Court, Mannargudi, he has been assaulted by the petitioner and her parents. Therefore, there is a threat for his life, if he appears before the said Court. Hence, both the H.M.O.P's may be transferred to any other common place.

4.On scrutinizing the Court records, it is seen that the vakalat has been filed by the respondent in September 2018, but till date no counter has been filed by the respondent. This Court does not find any reason to grant time as sought for by the respondent for filing counter and also find no merit on the submissions made by the learned counsel appearing for the respondent. Since the petition seeking restitution of conjugal rights is pending on the file of the Sub Court, Mannargudi, the respondent is bound to appear before the Court.

5.Taking note of the fact that the petition in H.M.O.P.No.176 of 2017 filed by the petitioner was pending on the file of the Sub Court, Mannargudi, for restitution of conjugal rights and the respondent has not filed the counter affidavit till date, this Court is inclined to transfer the H.M.O.P. No.344 of 2017 pending before the Principal Sub Court, Trichirappalli to the file of the Sub Court, Mannargudi.

6.Accordingly, the Tr. C.M.P. is allowed and the H.M.O.P. No.344 of 2017 pending on the file of the Principal Sub Court, Trichirappalli is withdrawn and transferred to the file of the Sub Court, Mannargudi to be tried along with H.M.O.P. No.176 of 2017.

7.The Sub Court, Mannargudi is directed to take up both the cases together and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.7164 of 2018 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Subordinate Judge,
Mannargudi.

2.The Principal Subordinate Judge,
Trichirappalli.

+lcc to Mr.J.Nandagopal, Advocate Sr.48488

+lcc to Mr.A.P.Sathyamoorthy, Advocate Sr.47423

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srg 25/07/2019

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