

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.11.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.543 of 2018
and
C.M.P.No.13475 of 2018

C.Tamilselvan

..Petitioner

Vs.

Anu Soundarya

...Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw and transfer the case in HMOP. No.1236 of 2016 from the file of the Additional Family Court, Coimbatore, Coimbatore District to the Sub Court, Tiruppur, Tiruppur District.

For Petitioner : Mr.C.Prakasam

For Respondent : Notice served - No appearance

O R D E R

This petition has been filed to withdraw the petition in 1236 of 2016 from the file of the Additional Family Court, Coimbatore and transfer the same to the Sub Court, Tiruppur, Tiruppur District.

2. The case of the petitioner is that the petitioner and the respondent are the husband and wife. The marriage between the parties was solemnized on 08.06.2016 at Sri Venkateswara Thirumana Mandapam, Kondapanaickenpatti, Salem. After marriage, the respondent has stayed in the matrimonial home only for two days. For that days, the respondent had frequently quarrelled with the petitioner and abused him in filthy language. Subsequently, the mother of the respondent taken her to Coimbatore. Thereafter, the petitioner has got transferred from Mettupalayam to Kuniyamuthur. For which, the petitioner set up a matrimonial house at Kuniyamuthur and taken his wife to his new house. There also, the respondent has not changed her attitude and behaved like lunatic. Due to continuous torture made by the

respondent, the petitioner could not able to live peacefully. Because of this, the petitioner got transfer to Namakkal Branch. Even there, the respondent and his mother started torture over phone. The petitioner advised them to take the respondent for counselling. Without to do so, the respondent always used to scold the petitioner in filthy language. Therefore, the petitioner has filed a petition in F.C.O.P.No.436 of 2016 before the Family Court, Salem for divorce. In the meanwhile, the respondent has filed a petition in HMOP. No.1236 of 2016 before the Family Court, Coimbatore, for Restitution of Conjugal Rights. Later, the petitioner has withdrawn the divorce petition filed by him. After knowing the same, the respondent has lodged a complaint against the petitioner before the All Women Police Station, Coimbatore. Against the petitioner has filed a divorce petition in FCOP. No.63 of 2018 before the Family Court, Salem. On an earlier occasion, the respondent has filed a transfer CMP. before this Court and on 23.04.2018, this Court had also transferred the case to Sub Court, Tiruppur and the same was re-numbered as HMOP. No.206 of 2018. At present, the petitioner is a resident of Salem. Hence, the petitioner seeks transfer the case from Coimbatore to Tiruppur.

3. The learned counsel for the petitioner would submit that the respondent is working in Syndicate Bank at Namakkal. Now the petitioner is appearing before both the Courts i.e. Family Court, Coimbatore as well as the Sub Court, Tiruppur. On the days of Court hearing, he would take one day leave. If the case is not transferred to Tiruppur, he would forced to take leave for those days frequently to attend the Court proceedings. This would be an additional burden for the petitioner. The respondent is unemployed and therefore, she can very well attend the Court in Tiruppur and no prejudice would be caused to her. The learned counsel for the petitioner seeks transfer of the petition in HMOP. No.1236 of 2016 from the Additional Family Court, Coimbatore to the file of the Sub Court, Tiruppur.

4. Though notice has been served on the respondent, none appeared either in person or through his counsel on behalf of the respondent. In spite of giving sufficient opportunities, the respondent has not come forward to defend her case. Therefore, this Court is inclined to dispose of the case on merits and in accordance with law.

5. Heard the learned counsel for the petitioner and perused the materials available on record. None appeared on behalf of the respondent.

6. It is seen from the affidavit filed in support of this petition that the respondent is an abnormal person and she behaved like lunatic. If the case is transferred to Tiruppur, she could not travel to Tiruppur to attend the proceedings.

7. In view of the above said pleadings of the petitioner and considering the position of the respondent, this Court is inclined to transfer the divorce petition filed by the husband in HMOP. No.206 of 2018, on the file of the Sub Court, Tiruppur to the file of Additional Family Court, Coimbatore and tried along with HMOP. NO.1236 of 2018, in order to avoid conflicting findings.

8. Accordingly, this petition is allowed. The Original Petition in HMOP. NO.2016 of 2018, on the file of the Principal Sub Court, Tiruppur is withdrawn and the same to be transferred to the Additional Family Court, Coimbatore and tried along with HMOP. No.1236 of 2018. No Costs. Consequently, the connected miscellaneous petition is closed.

9. The learned Judge, Family Court, Coimbatore is directed to dispose of the cases as expeditiously as possible. The parties and their counsel are directed to cooperate with the trial without taking any adjournment.

Sd/-
Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge, Sub Court, Tiruppur.
2. The Judge, Additional Family Court, Coimbatore.

+1cc to Mr.C.Prakasam , Advocate SR.No. 95995

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A.SK(20/01/2020)