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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.659 of 2018

R.Divya ... Petitioner

-vs-

C.Nandakumar ... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw the H.M.O.P.No.39 of 2014 from the file of the Sub Court, Gudiyatham, Vellore District to transfer the same before the Hon'ble Family Court at Chennai.

For Petitioner :: Mr.B.A.Prakash

For Respondent :: Mr.S.Vijay Anand

ORDER

This transfer civil miscellaneous petition has been filed by Mrs.R.Divya, wife of the respondent selectively seeking the withdrawal of only H.M.O.P.No.39 of 2014 filed by her for divorce from the file of the Sub Court, Gudiyatham to be transferred to the Family Court at Chennai, on the ground that she has been working at Chennai. The learned counsel for the petitioner also submitted that since the respondent being a businessman is creating unwanted trouble to the petitioner by physically assaulting her, it is not safe on her part to conduct the case before the Sub Court, Gudiyatham. Therefore, the H.M.O.P.No.39 of 2014 pending on the file of the Sub Court, Gudiyatham be withdrawn and transferred to the file of the Family Court at Chennai.

2. Opposing the above prayer, the learned counsel for the respondent submitted that when the petitioner herself has filed three cases, namely, H.M.O.P.No.39 of 2014 under Section 13(1) (ia) of the Hindu Marriage Act for divorce before the Sub Court, Gudiyatham, Maintenance Case No.5 of 2015 before the learned Judicial Magistrate, Gudiyatham and another Domestic Violence Case No.1 of 2017 before the learned Judicial Magistrate,



Gudiyatham, it is not known how the petitioner can allege threat to her life. When the petitioner has not sought for transfer of the other two cases, namely, M.C.No.5 of 2015 and D.V.C.No.1 of 2017 from the file of the learned Judicial Magistrate, Gudiyatham, that shows that she is able to appear in those cases and the allegation made against the respondent that he is causing untold hardship and problems to the petitioner only at the time of hearing the case in H.M.O.P.No.39 of 2014 is wholly unacceptable and unbelievable.

3. This Court also fully agree with the reply given by the learned counsel for the respondent. When the petitioner has filed three cases, namely, H.M.O.P.No.39 of 2014 under Section 13(1)(ia) of the Hindu Marriage Act for divorce before the Sub Court, Gudiyatham, Maintenance Case No.5 of 2015 before the learned Judicial Magistrate, Gudiyatham and another Domestic Violence Case No.1 of 2017 before the learned Judicial Magistrate, Gudiyatham, if the prayer for withdrawal and transfer of one case i.e., H.M.O.P.No.39 of 2014 from the file of the Sub Court, Gudiyatham is allowed, it would be causing problem to both the parties, because, in any event, both the parties have to appear before the learned Judicial Magistrate, Gudiyatham in the pending M.C.No.5 of 2015 and D.V.C.No.1 of 2017 cases. Therefore, Tr.C.M.P.No.659 of 2018 is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
Gudiyatham,
Vellore District.
- 2.The Judge,
Family Court, Chennai.
- 3.The Judicial Magistrate,
Gudiyatham.

+2cc to Mr.S.Vijay Anand, Advocate Sr.54384

Tr.C.M.P.No.659 of 2018

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srg 14/08/2019