

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2019

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP.No.475 of 2019
and
CMP.No.13300 of 2019

P.Karthika

... Petitioner

Versus

K.Suresh

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the proceedings pending on the file of the learned Subordinate Court, Ranipet in HMOP. No.156 of 2018 to the file of the Family Court, Villupuram, to be tried along with HMOP. No.70 of 2019 and MC.No.25 of 2019.

For Petitioner : Mr.Suresh.N.
For Respondent : No appearance

O R D E R

The Transfer Miscellaneous Petition has been filed seeking to withdraw and transfer the proceedings pending on the file of the learned Subordinate Court, Ranipet in HMOP. No.156 of 2018 to the file of the Family Court, Villupuram, to be tried along with HMOP. No.70 of 2019 and MC.No.25 of 2019.

2. The case of the petitioner is that the respondent and the petitioner is the husband and wife and the marriage between the parties was solemnized on 09.02.2015 at Jayasakthi Kalyanamandapam at Villupuram as per Hindu Rites and Customs. Out of the wedlock, one female child was born on 18.11.2015. The respondent is an Engineer and is working in a company as Designing Engineer at Coimbatore and is earning a sum of Rs.1.40 lakhs per month as salary. During the pregnancy of the petitioner, even without doing seemantham function, the respondent left the petitioner in her parental house. On 18.11.2015, the child was born and the respondent and his family

members visited the child only after three days. After delivery, on 01.02.2016, the respondent kicked the petitioner by his leg in the stomach operated portion. As per request of the respondent, the petitioner has resigned her job. Due to the misunderstanding, the respondent deserted the petitioner and also filed a petition in HMOP. No.156 of 2018, on the file of the learned Subordinate Judge, Ranipet for divorce. The petitioner has filed a petition in HMOP. No.70 of 2019, before the Family Court, Villupuram for restitution of conjugal rights and also filed the maintenance case in M.C.No.25 of 2019, before the same Court and both the case are pending. The petitioner/wife is the resident of Villupuram. She finds it difficult to travel from Villupuram to Ranipet to attend the Court proceedings. Therefore, she seeks transfer of the petition in HMOP. NO.156 of 2018, on the file of the learned Subordinate Judge, Ranipet filed by the husband and to transfer the same on the file of the Family Court, Villupuram, to try along with HMOP. No.70 of 2019 and M.C.No.25 of 2019, filed by the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner has filed a petition before the Subordinate Court, Ranipet only to harass the petitioner. The petitioner is living along with her parents at Villupuram and also she is depending upon her parents for her livelihood. It is very difficulty for the petitioner to travel along with her child from Villupuram to Ranipet, which comes around 400 kms. Further, she has filed maintenance case and restitution of conjugal rights petition against the respondent before the Family Court, Villupuram and the same are pending. If the case is transferred to Villupuram, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case in HMOP. No.156 of 2018 filed by the husband from Ranipet to Villupuram, to try along with HMOP. No.70 of 2019 and M.C.No.25 of 2019.

4. Notice has been served on the respondent by this Court and the same was returned as ''door locked''. Again on 19.09.2019, fresh notice was ordered and the same was served on the respondent. Mr.B.A.Sugumar and Mrs.S.Mythreye have filed vakalat on behalf of the respondent and their names have also been printed in the cause list. When the matter was taken up for hearing on 22.10.2019, there was no representation on behalf of the respondent. However, the learned counsel for the petitioner has informed the counsel for the respondent through phone that the matter will be listed on 23.10.2019. Even today also, there is no representation on behalf of the respondent. Hence, this Court is inclined to pass orders on merits in accordance with law.

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

6. It is seen from the records that both the petitioner as well as the respondent have filed two different proceedings at two different places.

7. Considering the convenience of the parties and in order to avoid conflicting judgments, this Court is inclined to transfer the case from Ranipet to Villupuram. Accordingly, HMOP. No.156 of 2018 pending on the file of Subordinate Court, Ranipet is to be withdrawn and transferred to the file of the Family Court, Villupuram, to be tried along with HMOP. No.70 of 2019 and M.C.No.25 of 2019 pending on the file of the Family court, Villupuram.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
Ranipet

2. The Judge,
Family Court,
Villupuram.

+1cc to Mr.Suresh.N., Advocate sr.89110

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nr 19/11/2019