

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.C.M.P.NO.577 OF 2019

AND

C.M.P.NO.16458 OF 2019

R.Karthika

... Petitioner

Vs.

M.Rajasekaran

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the Restitution Petition in H.M.O.P.No.430 of 2018 pending on the file of the Principal Sub-Judge, Tirupur and to transfer the same to the file of the II Additional Family Court, Chennai.

For Petitioner : Mr.V.P.Krishnamoorthy

For Respondent : Served

No Appearance

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking for transfer of H.M.O.P.No.430 of 2018 from the file of the Principal Sub-Judge, Tirupur, to the file of the II Additional Family Court, Chennai.

2. It is stated in the affidavit filed in support of this petition that the marriage between the petitioner and the respondent was solemnized on 17.05.2012 at Kamatchi Amman Marriage Hall, Tiruppur, as per Hindu Rites and Customs. Out of the wedlock, a male child was born on 10.03.2013. Before the marriage, the petitioner was working as Software Engineer in an M.N.C company at Chennai and after the marriage, she went to her matrimonial home at Tirupur and therefore, she resigned her job at Chennai. Only for few days, the petitioner and the respondent lived happily and thereafter, the respondent and his mother started harassing the petitioner demanding dowry and started ill treating her developing some hostility towards her. In this situation, the petitioner was sent to her parents' house on

account of her delivery during the month of December 2012 and she blessed with a male child on 10.03.2013. The respondent visited the petitioner's house only for few days and thereafter, stopped visiting her and her son. In spite of the same, the petitioner's parents dropped her and her son at the matrimonial home at Tiruppur on 07.11.2013, but the respondent and his mother continued to harass the petitioner and at one point of time, sent out the petitioner from the matrimonial home. Since the efforts taken by the petitioner and her family members for reunion went in vain and the respondent deserted her and informed her that he is not ready to live with her, she filed a Divorce Petition in H.M.O.P.No.2946 of 2018 before the II Additional Family Court, Chennai.

3. It is further stated in the affidavit that since there was no support from the respondent for the past two years, the petitioner found it difficult to take care of herself and the minor child, therefore, she filed a Maintenance Petition in M.C.No.512 of 2019 before the II Additional Family Court, Chennai. On 18.06.2019, she received a notice from the Principal Sub-Judge Court, Tiruppur, calling her to appear on 23.09.2019. Only after receipt of the same, she came to know that the respondent has filed a Restitution Petition in H.M.O.P.No.430 of 2018 before the Tiruppur Court, making false allegations against her.

4. It is also stated in the affidavit that the petitioner's parents have already passed away, therefore, now she is under the custody of her brother at Chennai depending upon the income of her brother. Further, she is being a lady and having a child, she could not travel to Tiruppur which is nearly 465 Kilometers from Chennai, to attend the case in H.M.O.P.No.430 of 2018. Hence, she seeks transfer of the same from the file of the Principal Sub-Judge, Tiruppur, to the file of the II Additional Family Court, Chennai.

5. When the matter was listed for admission on 01.08.2019, there was no representation for the respondent, therefore, a notice through Court as well as privately was ordered by this Court. The Court notice was served on 22.08.2019 and the Private notice sent on 12.08.2019 was returned as 'No such addressee' on 19.08.2019. Hence, a fresh Private notice was ordered by this Court on 05.09.2019. As per the direction, though notice has been served through Court on 22.08.2019 and privately on 17.09.2019, there is no representation for the respondent even today i.e. on 14.10.2019 when the matter is listed. Hence, this Court is inclined to transfer the H.M.O.P.No.430 of 2018 from the file of the Principal Sub-Judge, Tiruppur, to the file of the II Additional Family Court, Chennai, as per the convenience of the petitioner/wife.

6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P.No.430 of 2018 pending on the file of the Principal Sub-Judge, Tirupur, is withdrawn and transferred to the file of the II Additional Family Court, Chennai. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

raja

To

1. The Presiding Officer,
II Additional Family Court,
Chennai.
2. The Principal Sub-Judge,
Tirupur.

TR.C.M.P.No.577 of 2019
and
C.M.P.No.16458 of 2019

PP(CO)
CS/04/12/2019