

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.537 of 2019 and
CMP.No.15015 of 2019

D.Christina

.. Petitioner

vs.

Arul Sahaya Julian Roay

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C. seeking to withdraw the I.D.O.P.No.99 of 2019 from the file of the District and Sessions Court, Tirunelveli and transfer the same to the Family Court at Chennai.

For Petitioner : Mr.V.Chinnasamy

For respondent : Mr.N.Poovanalingam

...

JUDGMENT

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the I.D.O.P.No.99 of 2019 from the file of the learned District and Sessions Judge, Tirunelveli and transfer the same to the Family Court at Chennai.

2. Learned Counsel appearing for the petitioner submitted that after the marriage between the petitioner and the respondent was solemnized on 28.12.2016 at St.Antony's Church, Cheevalaperi Road, Palayamkottai, Tirunelveli District as per Christian rites and customs, they were not going together. Finally, the respondent-husband has filed a petition under Section 10 of the Indian Divorce Act to dissolve the marriage which took place between the parties. The petitioner is residing at Chennai. It will be very difficult for her to undertake a journey to Tirunelveli to attend the court hearings. Therefore, the matter may be transferred to the Family Court, Chennai.

3. Learned Counsel for the respondent submitted that when serious allegations have been made against the petitioner, some time may be given for filing counter affidavit.

4. But this Court is not going to decide the merits of the matter as the prayer for transfer has to be decided only on the convenience of both the parties and since the petitioner is being a lady aged about 36 years residing in Chennai, it is not advisable for her to take a long journey from Chennai to Tirunelveli. Therefore, this Court is inclined to allow the present Transfer CMP.

5. At this stage, the learned Counsel for the petitioner submitted that the petitioner has filed an application under Section 32 of the Indian Divorce Act seeking restitution of conjugal rights in I.D.O.P.No.3309/2019 which is pending on the file of the learned VI Additional Judge, Family Court, Chennai. Therefore, the IDOP.No.99/2019 filed by the respondent husband before the learned District and Sessions Judge, Tirunelveli may be transferred to the file of the learned VI Additional Judge, Family Court, Chennai for common disposal.

6. In view of all the above, the IDOP.No.99/2019 filed by the respondent husband before the learned District and Sessions Judge, Tirunelveli is transferred to the file of the learned VI Additional Judge, Family Court, Chennai to be tried along with I.D.O.P.No.3309/2019 filed by the petitioner wife. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The District and Sessions Judge, Tirunelveli.

2.The VI Additional Judge, Family Court, Chennai.

+1 cc to Mr.V.Chinnasamy, Advocate, S.R.No.70075

Tr.CMP.No.537 of 2019

GMR(CO)
SSM(17/09/2019)