

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Tr.C.M.P.No.543 of 2019

S.Vidhya Alamelu

...Appellant

vs.

Jayakumar

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 C.P.C. seeking to withdraw H.M.O.P.No.110 of 2019 pending on the file of the Subordinate Court at Poonamallee and transfer the same to the file of the Family Court at Coimbatore.

For Appellant : Mr.Adaikkappan @ Sithiraianandam S.

For Respondent : Ms.V.Pushpa

O R D E R

The Petitioner/wife has come up with this Petition seeking transfer of H.M.O.P.No.110 of 2019 pending on the file of the Subordinate Court, Poonamallee to the file of the Family Court, Coimbatore.

2. According to the Petitioner, she has two children through the marriage with the Respondent herein and that, she along with her children are residing in her parent's house at Coimbatore. It is her case that, she has to travel all the way from Coimbatore to Chennai for 550 kms to attend the trial of the divorce proceedings in H.M.O.P.No.110 of 2019, and that, a male member of her family has to accompany her. She pleaded that, if the matter is transferred to the Sub-Court or Family Court in and around Coimbatore, it will be possible for her to represent the matter.

3. Learned counsel for the Petitioner contended that the Respondent/husband is having an affair with another lady viz. Ritu Bhasin. He drew the attention of this Court to the Aadhar Card and Sale Deeds of Ritu Bhasin, in which, she has mentioned the name of the Respondent herein, viz. Jayakumar, as her husband, and has also mentioned the Respondent's address as her contact address.

4. Learned counsel appearing for the Respondent/husband submitted that the Respondent is residing at Ambattur and is doing business. The Petitioner is in the habit of suspecting the Respondent in all his activities and hence, misunderstandings arose between them, due to which, the Respondent/husband had to move out of the house in which they were living, and is now living separately. Also, the children who were studying in Ambattur were shifted to their maternal grandparents' house at Coimbatore by the Petitioner, without the knowledge of the Respondent and his parents. The Respondent had to believe that the children were taken to Coimbatore for holidays. Only subsequently, he came to know that the children were admitted in a School at Coimbatore in July 2019. Ultimately, the Respondent/husband initiated divorce proceedings against the Petitioner/wife in H.M.O.P.No.110 of 2019 on the file of the Subordinate Court, Poonamallee.

5. It is further stated by the learned counsel appearing for the Respondent that the name of the Respondent viz. Jayakumar said to have been entered as the husband of one Ritu Bhasin in her Aadhar Card, has been deleted. He went on to state that the said Ritu Bhasin has also presented Rectification Deeds to correct the name of the Respondent, which has been wrongly entered in the Sale Deeds pertaining to the properties which were purchased in connection with the Respondent's business. He also submitted that, both parties are represented by respective Lawyers before the Subordinate Court at Poonamallee.

6. Heard the learned counsel for the parties and perused the material documents available on record.

7. Admittedly, there are misunderstandings between the Petitioner/wife and the Respondent/husband. Also, it is seen that, the Aadhar Card and Sale Deeds of the said Ritu Bhasin, do bear the name of the Respondent herein, i.e. Jayakumar, as her husband. However, the corrected copy of her Aadhar Card, after deleting the Respondent's name is produced by the learned counsel for the Respondent today.

8. In this regard, learned counsel appearing for the Respondent/husband submitted that there is no illegal relationship between the Respondent herein and the said Ritu Bhasin. He also stated that, the Petitioner kept on suspecting the Respondent and developed fights in front of their children, which has resulted in character assassination of the Respondent. It is also stated that, the credit card of the Respondent/husband is still with the Petitioner/wife and she is using the same for all transactions and, it has not been returned to the Respondent.

9. According to the Petitioner, money is not an issue. But, cordial relationship has to be maintained between a husband and wife and that, the Respondent herein has not taken any steps to maintain such relationship.

10. As could be seen from the records, the Respondent/husband has purchased a property in the name of the Petitioner/wife, apart from allowing her to use his Credit Card. In this connection, learned counsel appearing for the Respondent submitted that the Petitioner can use the Respondent's Credit Card for the purpose of travel from Coimbatore to Chennai to attend the trial proceedings in H.M.O.P.No.110 of 2019 before the Subordinate Court at Poonamallee, apart from taking care of the educational expenses of their children, and other expenses. Learned counsel further submitted that the Respondent/husband is willing to bear all the expenses of their children, till they become financially independent.

11. It is seen that, the relief of transfer sought by the Petitioner is only on account of ego. If the Respondent/husband is unable to produce the rectified Sale Deeds of the said Ritu Bhasin, the version of the Petitioner/wife has to be believed.

12. Taking note of the submissions of the learned counsel appearing for the Respondent that, the Respondent has permitted the Petitioner to use his Credit Card to meet out her travelling expenses from Coimbatore to Chennai, and that, the parties are represented by their respective Lawyers before the Subordinate Court, Poonamallee, and also bearing in mind the fact that the Petitioner has taken her children to Coimbatore without the knowledge of the Respondent/husband, this Court is not inclined to grant the relief sought by the Petitioner.

13. The Subordinate Court at Poonamallee shall conclude the trial in H.M.O.P.No.110 of 2019, uninfluenced by the observations made by this Court, as expeditiously as possible, without adjourning the matter beyond 30 working days at any point of time, to bring the issue to a logical end.

14. It is made clear that the observations made herein, are only for the purpose of disposal of this Petition and not for any other purpose.

The Transfer Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, connected C.M.P.No.15302 of 2019 is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

To :

The Subordinate Court, Poonamallee.

+1cc to Mr.V.Pushpa, Advocate SR.No.103937

+1cc to Mr.S.Sithirai Anandam, Advocate SR.No1482 (06/02/2020)

Tr.C.M.P.No.543 of 2019

MG (CO)

GMV (13/01/2020)