

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 01.11.2019
CORAM
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.607 of 2019
and
C.M.P.No.17428 of 2019

S.Pushpa ..Petitioner/Respondent

Vs.

V.Sathyachandran ...Respondent/Petitioner

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in HMOP. No.17 of 2019 on the file of the learned Sub Court, Arakkonam and transfer the same to the file of the learned Sub Court, Poonamallee.

For Petitioner : Mr.Ashraf Khan R

For Respondent : Mrs.D.Rajalakshmi
for Mr.P.M.Bakthavachalam

O R D E R

The petitioner herein filed this transfer Civil Miscellaneous Petition to withdraw the case in HMOP. No.17 of 2019, pending on the file of the learned Sub Court, Arakkonam and transfer the same to the file of the learned Sub Court, Poonamallee.

2. The case of the petitioner is that the respondent and the petitioner are the husband and wife and the marriage between the parties was solemnised on 11.05.2012 at S.B. Babu Reddiyar Thirumana Mandapam, CTH Road, Avadi, as per Hindu Rites and Customs. The petitioner's parents offered 25 sovereign of gold jewels and house hold articles including Silver Utensils as Sreedhana for the marriage. The respondent was owning a ice factory at the time of marriage. After marriage, the petitioner was living in matrimonial house and initially, the couples were leading a life peacefully. Out of the said wedlock, a male child was born and died on 10.05.2013 and subsequently, a female child was born on 24.06.2014 and another female child was born on 03.04.2017. They were living happily. After marriage of one of the respondent cousin sister, the respondent did not give respect to the petitioner and abused her in filthy language in

front of his relatives. Thereafter, the petitioner left the matrimonial home on 24.10.2018 along with two children to her parents house. The petitioner waited for the respondent would call her and take her back to the matrimonial home but he never called up. While that being so, the petitioner had joined her elder daughter in Nazareth School at Avadi and she is studying UKG and the younger child being two years old, she was taken care by the petitioner. Without taking any steps for re-union, the respondent filed H.M.O.P.No.17 of 2019 before the Sub Court, Arakonam, seeking for decree of divorce. The petitioner is residing at her parents house at Avadi. Therefore, she finds it very difficult to travel from Avadi to Arakkonam to attend every date of hearing. Hence, she seeks transfer of the petition in HMOP. No.17 of 2019 pending on the file of the Sub Court, Arakkonam to the file of the Sub Court, Poonamallee.

3. The learned counsel for the petitioner would submit that now the petitioner and her children are living in her parental home at Avadi. She is depending upon her parents for her livelihood. The learned counsel for the petitioner would further submit that the petitioner being a lady, could not travel alone from Avadi to Arakkonam for attending Court proceedings. If the case is transferred to Poonamallee, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer of the case filed by the husband from Arakkonam to Poonamallee.

4. The learned counsel for the respondent has drawn the attention of this Court to the Counter affidavit and submit that the respondent filed a Divorce petition on the ground of Cruelty u/s.13 1(ia) at Arakonam. The petitioner left the matrimonial home only on 25.11.2018 by taking all her jewels along with her. The learned counsel further submitted that the respondent is owning two ice factories one in Arakonam and another one in Kancheepuram. He has to look after and supervise the day to day work of the employees for his livelihood, so also, the respondent has high blood pressure, sugar and kidney stone. The respondent also submits that ice business will be badly affected if the case is transferred from Arakonam to Avadi and he will also lose his customers.

5. Heard the learned counsel for the petitioner as well as the respondent. Perused the materials available on record.

6. Considering the fact that the petitioner has to take care of her two minor children and it will be difficult for her to travel from Avadi to Arakonam to attend every date of hearing, this Court is inclined to transfer the case from Arakonam to Poonamallee. Accordingly, HMOP. No.17 of 2019 pending on the file of the Sub Court, Arakkonam is to be

withdrawn and transferred to the file of the Sub Court,
Poonamallee.

9. In the result, the Transfer Civil Miscellaneous Petition
is allowed. No costs. Consequently, connected miscellaneous
petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Sub Court, Arakonam.
2. The Sub Court, Poonamallee.

+1 cc to Ms.D.Rajalakshmi Advocate sr92013

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