

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.563 of 2019
and
C.M.P.No.15888 of 2019

K.Nandhini

... Petitioner/Respondent

Vs.

S.M.Kumar

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code to withdraw the HMOP. No.1578 of 2018 on the file of the II Additional Principal Family Court, Chennai and transfer the same to the file of the Family Court, Tiruppur.

For Petitioner : Mr.S.D.Venkateswaran
For Respondent : Mr.M.Deivanandam

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the petition in HMOP. No.1578 of 2018, on the file of the II Additional Family Court, Chennai; and transfer the same to the file of the Family Court, Tiruppur.

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between the parties on 06.11.2016 at Arulmigu Sree Bali Amman Thirukovil at Villivakkam as per Hindu Rites and Custom. At the time of marriage, the petitioner's parents given 30 sovereigns of gold jewels and two silver kuthuvilakku and other household articles. After the marriage, the couple were lived together in the respondent's house at Chennai and they were living happily for few days. After sometime, the respondent started ill-treating the petitioner and abused her with filthy language without any reason and the respondent and his family members demanded dowry from the petitioner. When the same was questioned by the petitioner's

parents, the respondent and his family members replied evasive. Thereafter, the respondents and his family members had continuously demanded dowry from the petitioner. Due to which, the petitioner left the matrimonial home. Having no other option, the petitioner has filed a petition against her husband and his parents in D.V.A.No.1 of 2017 on the file of the learned Judicial Magistrate, Palladam and the same was closed on 08.07.2017 as the claim made by the petitioner under the Domestic Violence Act was settled between them. Thereafter, the respondent has filed a petition in HMOP. No.978 of 2017 on the file of the III Additional Principal Family Court, Chennai for restitution of conjugal rights and the same was dismissed as withdrawn on 12.12.2017. Subsequently, the respondent has filed a petition in HMOP. No.1578 of 2018 before the II Additional Principal Family Court, Chennai for dissolution of marriage. The petitioner/wife is the resident of Tiruppur. She finds it difficult to travel from Tiruppur to Chennai to attend the hearing. Therefore, she seeks transfer of the divorce petition in HMOP. No. 1578 of 2018 on the file of the II Additional Family Court, Chennai to the file of the Family Court, Tiruppur.

3. The learned counsel for the petitioner/wife would submit that the petitioner is living in her parental house along with her aged parents and she is depending upon her parents for her livelihood. The father of the petitioner is a daily breadwinner and the mother of the petitioner is cancer patient. They could not accompany with her to attend the court proceedings in Chennai. It is very difficult for her to travel alone from Tiruppur to Chennai for attending each and every hearings. If the case is transferred to the Family Court, Tiruppur, no prejudice would be caused to the respondent. Hence, the petitioner came this Court by way of this petition, seeks transfer the case pending before the II Additional Family Court, Chennai to the file of the Family Court, Tiruppur.

4. The learned counsel for the respondent would submit that the dispute between the parties has already been settled before the National Lok Adalat on 08.07.2017 itself. Therefore, nothing survives for further adjudication.

5. Heard the learned counsel for the petitioner as well as the respondent and also perused the materials available on record.

6. On a perusal of the records, it could be seen that the settlement entered into between the parties before the National Lok Adalat that the respondent shall pay a sum of Rs.4.5 Lakhs to the petitioner towards past, present and future maintenance

on or before 25.10.2017. Both the parties have agreed to settle their other disputes amicably in between them. Hence, the said case was closed.

7. Considering the convenience of the parties, this Court is inclined to withdraw the divorce petition filed by the husband to the file of the Family Court, Tiruppur.

8. Accordingly, H.M.O.P.No.1578 of 2018 pending on the file of II Additional Principal Family Court, Chennai is to be withdrawn and transferred to the file of the Family Court, Tiruppur.

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

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

1. The Judge II Additional Principal
Family Court, Chennai.

2. The Judge Family Court, Tiruppur.

+1 cc to Mr.S.D.Venkateswaran Advocate sr85996

+1 cc to Mr.M.Deivanandam Advocate sr85937

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