

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.576 of 2019
and CMP Nos.16456 and 16453 of 2019

K. Sowmiya

... Petitioner

-vs-

V. Karthikeyan

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw HMOP No.95 of 2019 pending on the file of Principal Subordinate Judge, Thanjavur District and transfer the same to Principal Subordinate Court, Tambaram, Chennai.

For Petitioner : Mr.A. Kumaran for
Mr.G. Mutharasu

For Respondent : Ms.K. Kanimozhi

O R D E R

Mrs.K. Sowmiya, W/o V. Karthikeyan filed this petition seeking to withdraw HMOP No.95 of 2019 pending on the file of Principal Subordinate Court Thanjavur District and transfer the same to Principal Subordinate Court, Tambaram.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 23.11.2000 and out of wedlock, they are blessed with two children, who are taken care of by the petitioner. Therefore, it is very difficult for the petitioner to undertake long journey from Chennai to

Thanjavur along with two children and if the matter is transferred to Principal Subordinate Court, Tambaram, no prejudice would be caused to the respondent/husband. The learned counsel further submitted that the petitioner is also take care of her old aged parents.

3. The learned counsel for the respondent submitted that the respondent/husband filed a petition in HMOP No.227 of 2011 for restitution of conjugal rights and the same was allowed by the learned Principal Subordinate Judge, Thanjavur on 23.07.2014. The learned counsel further submitted that even though there was an order dated 23.07.2014 allowing the application for restitution of conjugal rights, the petitioner/wife has not come forward to live and therefore, she has filed a petition for divorce.

4. In reply, the learned counsel for the petitioner submitted that the respondent is having some illicit intimacy with some other lady.

5. These are all matters for trial. This Court finds that there is merit in the submissions made by the learned counsel for the petitioner/wife. Moreover, since the petitioner is having two children, it will be difficult for her to take the children to Thanjavur for every hearing. Considering the fact that balance of convenience is in favour of the petitioner/wife, this court is inclined to accede to the request of the transfer. Hence, the Transfer CMP is allowed.

6. Accordingly, the Tr.C.M.P. is allowed and the H.M.O.P.No.95 of 2019 pending on the file of Principal Subordinate Judge, Thanjavur is withdrawn and transferred to Principal Subordinate Court, Tambaram.

7. The learned Principal Subordinate Judge, Thanjavur District is directed to send the entire records relating to HMOP No.95 of 2019 to the Principal Subordinate Court, Tambaram forthwith and the learned Principal Subordinate Judge, Tambaram is directed to take up HMOP.95 of 2019 and dispose of the same expeditiously in the manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Subordinate Court, Thanjavur
- 2.The Principal Subordinate Court, Tambaram

+1cc to Mr.R.Annamalai , Advocate SR.No. 75888

+1cc to Mr.G.Mutharasu , Advocate SR.No. 75792

Tr.C.M.P.No.576 of 2019

A.SK(17/10/2019)

A.SK(08/11/2019)