

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.584 of 2019

and

C.M.P.No.16812 of 2019

K.Radhika

... Petitioner/Petitioner

Vs.

Chandrasekar

... Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the HMOP. No.380 of 2019 pending on the file of the Sub Court, Tambaram and to transfer the same to the file of the V Additional Family Court, Chennai.

For Petitioner : Mr.S.Krishnamoorthy

For Respondent : Notice served - No appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the HMOP. No.380 of 2019 pending on the file of the Sub Court, Tambaram and to transfer the same to the file of the V Additional Family Court, Chennai.

2. The Respondent and petitioner are husband and wife. In the year 2010, the petitioner and the respondent loved each other. The petitioner's family opposed the love affair with the respondent and also refused to accept the marriage proposal. For which, the petitioner left from her parental home and she got married with the respondent on 20.08.2012 at Mela Tirupathi Temple, Medavakkam, Chennai as per Hindu Rites and Custom. Out of the wedlock, one female child viz., Pragathi was born on 20.03.2014. After the marriage, the petitioner and the respondent were living together in the respondent's house. Soon after the marriage, the respondent had resigned his job and spent time with his friends and used to drink alcohol. Further, the respondent has doubted her fidelity and he started to harass the petitioner mentally and physically. After the birth of the child, the respondent and his family members compelled the petitioner to go to job. Due to cruel attitude of the respondent, the petitioner left the matrimonial home along with her child and set up a rented house at Semmanchery. On 27.01.2019, the respondent went to the petitioner's house under the influence of alcohol,

quarreled with the petitioner and damaged her two wheeler and taken the child. Therefore, the petitioner has given a complaint against the respondent before the All Women Police Station, Guindy. Having no other option, the petitioner has filed a petition in HMOP. No.380 of 2019 on the file of the Sub Court, Tambaram for divorce. As a counter blast, the respondent has filed a petition for restitution of conjugal rights in HMOP. No.3167 of 2019, before the V Additional Family Court, Chennai. Therefore, she seeks transfer of the petition filed for divorce in HMOP. No.380 of 2019, on the file of the Sub Court, Tambaram to the file of the V Additional Family Court, Chennai, to try along with the petition in HMOP. No.3167 of 2019, for avoiding conflicting order.

3. The learned counsel for the petitioner/wife would submit that the petitioner is living separately along with her child at Semmenjery. Being a lady, the petitioner finds it difficult to attend the proceedings in Tambaram as well as Chennai. Both the cases are arising out of the matrimonial dispute between the petitioner and the respondent. Therefore, it will be appropriate to transfer the case in HMOP. No.380 of 2019 on the file of the Sub Court, Tambaram to the learned V Additional District Family Court, Chennai, to try along with HMOP. No.3167 of 2019 filed by the husband.

4. This Court ordered notice to the respondent through Court as well as privately and the same was served on him. Till date, no vakalat has been filed on behalf the respondent. In spite of giving sufficient opportunities, the respondent has not appeared in person or through his counsel. Hence, this Court is inclined to dispose of the matter on merits in accordance with law.

5. Heard the learned counsel for the petitioner and perused the materials available on record. There is no representation on behalf of the respondent.

6. It is seen from the records that both the petitioner as well as the respondent are filed two different cases at two different places. Therefore, this Court is of the opinion that since both the cases are interconnected and Joint trial would meet ends of justice and also avoid conflicting orders. Considering the facts and circumstances of the case, this Court is inclined to withdraw the petition in HMOP. No.380 of 2019 on the file of the Sub Court, Tambaram filed by the wife for divorce and transfer the same to the file of the V Additional Family Court, Chennai, to try along with the case in HMOP. No.380 of 2019 filed by the husband.

7. Accordingly, H.M.O.P.No.380 of 2019 pending on the file of Sub Court, Tambaram is to be withdrawn and transferred to the file of the V Additional Family Court, Chennai, to be tried along with the case in HMOP. No.3167 of 2019.

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

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,Tambaram.

2.The VI Additional Family Court, Chennai.

+lcc to Mr.V.Karnan, Advocate, S.R.No. 89994

TR C.M.P. No.584 of 2019
and
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SJ(CO)
GN(11/12/2019)