

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.587 of 2019

and

C.M.P.No.16907 of 2019

Meeradevi

... Petitioner

Vs.

Tamilselvan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case filed in HMOP. No.20 of 2016 on the file of the Family Court, Karaikkal, Puducherry-Union Territory and transfer to the Principal Sub Court, Mayiladuthurai, Nagapattinam District, to be tried along with HMOP. No.44 of 2012.

For Petitioner : Mr.Veerasekharan.D.

For Respondent : Ms. Gopika Nambiar

For Mr.T.Saikrishna

ORDER

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the case in HMOP. No.20 of 2016 on the file of the Family Court, Karaikkal, Puducherry-Union Territory and transfer the same to the file of the Principal Sub Court, Mayiladuthurai, Nagapattinam District, to be tried along with HMOP. No.44 of 2012.

2. The Respondent and the petitioner are husband and wife. The marriage between them was solemnized on 29.11.2009 at Royal Mahal Thirumana Mandapam, Karaikkal as per the Hindu rites and customs. After the marriage, the petitioner was living in respondent's house at Karaikkal. Since the respondent was working at Bangalore, the spouses set up a rental home at Bangalore, for which the respondent pledged all the jewels of the petitioner. Thereafter, the respondent got a job in Chennai as Software Engineer in Cognizant Technology Solutions Software Company and earning a sum of Rs.1,25,000/- per month. As instructed by the in-laws of the respondent, he demanded money from the petitioner's parents to purchase a house at Karaikkal. Due to the same, there was a dispute between the couple. Out of the lawful wedlock, a male child viz., Sai Rajesh was born to

them on 30.12.2010. Thereafter, the respondent has not taken any steps to bring the petitioner to the matrimonial home. The respondent has filed a petition in HMOP. No.8 of 2012 before the District Court, Karaikkal, Puducherry. The said Court is designated as Family Court, Karaikal and the case is also re-numbered as O.P.No.20 of 2016. Subsequently, the petitioner has filed a petition for restitution of conjugal rights in HMOP No.44 of 2012 before the Principal Sub Court, Mayiladuthurai, Nagapattinam District. The petitioner/wife is the resident of Mayiladuthurai. She finds it difficult to travel from Mayiladuthurai to Karaikal to attend the Court proceedings. Therefore, she seeks transfer of the petition filed by the husband from Karaikal to Mayiladuthurai and to be tried along with the petition in HMOP. No. 44 of 2012 filed by the petitioner.

3. The learned counsel for the petitioner/wife would submit that illegally, the respondent has remarried another woman viz., one Kavitha. On an earlier occasion, the petitioner filed a transfer petition in Tr.CMP. No.346 of 2012 for transferring the divorce case in HMOP. No.8 of 2012 on the file of the District Court, Puducherry to the file of the Sub Court, Mayiladuthurai and to try along with the petition in HMOP. No.44 of 2012 and the same was dismissed by this Court on the ground that the said divorce petition was set exparte. Now the said divorce petition is restored at Principal District Court, Karaikal for fresh disposal. Now the petitioner is living at Mayiladuthurai along with her aged parents. It is very difficult for the petitioner to travel from Mayiladuthurai to Karaikal along with her child. If the case is transferred to Mayiladuthurai, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by her husband from Karaikkal to Mayiladuthurai and to try along with the petition filed by the petitioner.

4. The learned counsel for the respondent/husband has vehemently objected to transfer of the case and prays to dismiss this petition filed by the petitioner.

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

6. It is seen from the records that both the petitioner and the respondent have filed two different proceedings in two different places.

7. Considering the averments made in the affidavit and in order to avoid multiplicity of proceedings, this Court feels it appropriate to withdraw OP. No.20 of 2016 pending on the file of the Family Court, Karaikkal, Puducherry-Union Territory and transfer the same to the file of the Sub Court, Mayiladuthurai, Nagappattinam District, to be tried along with the petition in HMOP. No. 44 of 2012, pending on the file of the Sub Court, Mayiladuthurai.

8. Accordingly, the petition in OP. No.20 of 2016 pending on the file of the Family Court, Karaikkal, Puducherry-Union Territory is directed to be withdrawn and transfer the same to the file of the Sub Court, Mayiladuthurai, Nagappattinam District, to be tried along with the petition in HMOP. No. 44 of 2012 pending on the file of the Sub Court, Mayiladuthurai.

9. The learned Judge, Family Court, Karaikal is directed to send all the papers in OP. No.20 of 2016 to the file of the Sub ordinate Judge, Mayiladuthurai within a period of (6)six weeks from the date of receipt of a copy of this order. The learned Judge, Subordinate court, Mayiladuthurai is directed to conduct the trial and dispose of the matter in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. Both the parties are directed to maintain discipline and decorum before the Court below and also cooperate with the proceedings.

10. With the above observations and directions, this Transfer Civil Miscellaneous Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Judge, Family Court, Puducherry.

2.The Subordinate Judge, Mayiladuthurai, Nagapattinam District.

+1cc to M/s.Sai & Bharath, Advocate Sr.No.87279

+1cc to M/s.D.Veerasekaran, Advocate Sr.No.86714

AKM/02.12.19 /3P-5C/

TR C.M.P. No.602 of 2019
and C.M.P.No.17287 of 2019