

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.609 of 2019
and
C.M.P.No.17461 of 2019

Arunthathi		... Petitioner
	Vs.	
V.Rangasaravanakumar		... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in H.M.O.P.No.112 of 2019, on the file of the learned Sub Court, Sankarankovil and transfer the same to the file of the learned VII Additional Family Court, Chennai.

For Petitioner : Mr.C.Jayaprakash

For Respondent : No appearance

ORDER

The petitioner herein is the wife and she prayed for withdrawing of the case in H.M.O.P.No.112 of 2019, on the file of the learned Sub Court, Sankarankovil and to transfer the same to the file of the learned VII Additional Family Court, Chennai, wherein she has filed maintenance petition in MCOP.No. 132 of 2017.

2 The case of the petitioner is that she got married to the respondent on 22.05.2015 at K.V.R.Thirumana Mandapam, Tiruvengadam, Sankarankovil, Tirunelveli District as per the Hindu Rites and Customs and they were residing at Chennai. For a brief period, she was residing in matrimonial house at No.15, Agraharam Street, Thiruvengadam Post, Sankarankovil Taluk, Tirunelveli District. After she became pregnant, instead of supporting the petitioner, the respondent along with his family members neglected her and they have not taken any care about her and then, the petitioner lodged a complaint before the All Women Police Station, Sankarankovil on 26.08.2015 and she was not allowed to reside in the matrimonial home, she was taken back to her parental House at Chennai. She delivered a girl child on 08.02.2016 and the respondent came to see the child only once and instead of taking care of the child, the respondent

neglected them. During the month of January 2017, the parents of the petitioner went to respondent house to reunite them but they were not allowed inside the house of the respondent. As a result of mediation, the respondent started living with the petitioner at Agraharam Street, Thiruvengadam in the rented house. The respondent lived in the house only for a week and thereafter, he avoided to come and failed in his obligation as a dutiful husband by neglecting to provide food and other family expenses to their maintenance.

3 Hence, the petitioner has filed a complaint before the All Women Police Station on 10.03.2017 but the respondent refused to reunite with the petitioner and assaulted her and no steps were taken by the respondent family to sent back the respondent to the matrimonial home, where the husband and wife reside. Hence, the petition for conjugal rights was filed before the VII Additional Family Court in HMOP.No.1206 of 2017 and she also filed a petition for maintenance in MC.No.132 of 2017. After receiving summons, the respondent appeared for few hearings and later he failed to appear and the matter was referred for mediation and in the mediation, he was set ex-parte on 18.04.2018, the orders passed on 11.07.2018. After obtaining the decree, notice was sent to the respondent, calling upon him to comply with the orders of the VII Additional Family Court, Chennai on 31.08.2019. The respondent neither replied nor complied with the Court order. Hence, left with no other option, the petitioner filed a petition before the VII Additional Family Court, Chennai in M.P.No.255 of 2019 for recovering the arrears of maintenance amount from the respondent and summons were sent to the respondent and he received summons and appeared in person, but did not pay any amount to the petitioner herein. Hence, the warrant was issued against the respondent for non compliance of the order.

4 Suppressing the entire facts, the respondent filed a divorce petition in HMOP.No.112 of 2019 before the learned Sub Court, Sankarankovil on the ground of cruelty only to harass the petitioner herein.

5 Further the petition submits that she got 3½ years old female child. She cannot travel to Sankarankovil, which is more than 600kms. She expressed her difficulty to travel alone with the child and also she said that as the parents are the senior citizens, they are not in a position to accompany with her in travelling overnight. Hence, she seeks transfer of the said HMOP.No.112 of 2019 pending before the Sub Court, Sankarankovil to the VII Additional Family Court, Chennai. Wherein, her maintenance petition is pending.

6 On a perusal of the records, it is clear that the notice was sent to the respondent on 14.08.2019 by the orders of this Court, fixing the hearing date as 04.09.2019 and the respondent has received notice on 06.09.2019 and private notice was also served on 22.08.2019. Acknowledgment card is also produced. In spite of receiving the said notice, he has not chosen to appear in person or through counsel.

7 The Registry was directed to verify whether any vakalath has been filed on behalf of the respondent. The Registry found that no vakalath has been filed on behalf of the respondent. The above all facts proved that that the respondent chosen not to appear before this Court wantonly.

8 Therefore, this Court is of the view that the petition filed by the wife is to be allowed and direct the Sub Court Sankarankovil to withdraw the HMOP.No.112 of 2019 and transfer the same to the VII Additional Family Court, Chennai, within a period of six weeks from the date of receipt of a copy of this order.

9 Accordingly, this Transfer Civil Miscellaneous Petition filed by the petitioner/wife stands allowed and the HMOP.No.112 of 2019 pending on the file of the Sub Court, Sankarankovil is withdrawn and is transfered to the file of the learned VII Additional Family Court, Chennai. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Sankarankovil.

2.The Judge, VII Additional Family Court,
Chennai.

+1cc to Mr.C.Jayaprakash, Advocate, SR.No.87195

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Kak(19/11/2019)