

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.611 of 2019
and
C.M.P.No.17500 of 2019

V.Jeyanthi		... Petitioner
	Vs.	
S.Vivek		... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the case in O.P.No.191 of 2019, on the file of the Family Court, Krishnagiri and transfer the same and to be tried jointly with H.M.O.P.No.134 of 2019, before the Sub Court, Tirupattur.

For Petitioner : Mr.K.S.Jeyaganeshan

For Respondent : No appearance

ORDER

The petitioner is the appellant herein, has filed this petition to withdraw the case in O.P.No.191 of 2019, on the file of the Family Court Krishnagiri and to transfer the same and to be tried jointly with H.M.O.P.No.134 of 2019, before the Sub Court, Tirupattur.

2. The case of the petitioner is that she got married to the respondent herein on 01.11.2017, at AGS Thirumana Mandapam, Tirupattur and the petitioner submits that she lived with her husband peacefully only for 10 days and after that the respondent and his mother demanded more dowry and there had been frequent quarrel between the parties and the respondent demanded her to bring a sum of Rs.5,00,000/- for giving bribe to get a job in the Government School as teacher as he had written the exam for the said post. The petitioner denied that her father did not have such a huge amount and they had expressed their inability to pay the sum. The mother in-law of the petitioner had informed the petitioner that God has entered into her body and said that the respondent needs to divorce the petitioner and should lead a new life and only then the respondent can have success in life. Believing the words of the mother, the respondent started torturing the petitioner to give divorce.

When the father and sister of the petitioner had visited the respondent family, they immediately made a quarrel and forcefully send the petitioner along with the petitioner family. The respondent had forcefully pushed the petitioner out of the matrimonial house. The petitioner family was not able to leave her at that place and have to take her back to their house. The petitioner's family also tried to compromise with the respondent and his family. The petitioner tried to speak with the respondent over phone but the mother-in-law did not give a chance. Instead, she demanded to bring Rs.10,000/- and then will think of reunion of the spouses. Hence, she filed a petition before the Social Welfare Officer, Krishnagiri on 20.09.2018 and after the intervention of the Social Welfare Officer along with the AGS Tirumana Manadapam Owner, the petitioner was taken back to the matrimonial house on 18.10.2018. Further, the petitioner submit that after reaching the matrimonial house, immediately the threat became serious and they planned to kill her on 20.10.2018. Hence, to save her life, the petitioner came back to the paternal house.

3. Thereafter, the respondent filed a petition in H.M.O.P.No.1919 of 2019 on the file of Family Court, Krishnagiri under Section 13(1)(1B) of the Hindu Marriage Act to dissolve the marriage under the ground of desertion. The petitioner submitted that the respondent gave a lot of mental agony and also treated in a shabby manner by his family members. Therefore, she filed a petition for Restitution of Conjugal Rights under Section 9 of the Hindu Marriage Act in HMOP.No. 134 of 2019 before the Sub Court, Tirupattur, seeking the respondent to come and rejoin with the petitioner with responsibility. When the petitioner appeared before the Krishnagiri Court on 18.07.2019, the respondent herein had threatened her to give divorce and used abusive language and threatened that if she does not give divorce, he will even go the extent of killing the petitioner. Immediately, the petitioner had given a police complaint in CSR.No.177 of 2019 on 18.07.2019. Since petitioner is residing in Triupattur and that she has to go to Krishnagiri, which is about 60 Kms distance and there is no frequent bus facility to go and appear for the hearing, she seeks transfer of OP.No.191 of 2019 filed by the respondent to be withdrawn and transferred to the Sub Court, Tirupattur to be tried along with HMOP.No.134 of 2019.

4. On a perusal of the records, it is clear that the petitioner was directed to serve notice to the respondent on 13.08.2019 and the said notice was served on the sole respondent through Court on 06.09.2019 and private notice sent by the petitioner has been returned as "unclaimed". In spite of receiving the said notice, he has not chosen to appear in person or through counsel.

5. Hence, the Registry was directed to verify whether any vakalath has been filed on behalf of the respondent and it was found that no vakalath has been filed on behalf of the respondent.

6. In view of the above facts, this Court is of the view that the petition filed by the wife is to be allowed and direct the Family Court, Krishnagiri to withdraw the OP.No.191 of 2019 and transfer the same and be tried jointly with HMOP.No. 134 of 2019, before the Sub Court, Tirupatttur within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, Transfer Civil Miscellaneous Petition filed by the petition/wife stands allowed and OP.No.191 of 2019 on the file of the Family Court, Krishnagiri is withdrawn and is transferred to the file of the Sub Court, Tirupatttur and to be tried along with HMOP.No.134 of 2019. No costs. Consequently, connected Miscellaneous Petition is also closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Family Court,
Krishnagiri.

2.The Sub Court,
Tirupatttur.

+1 CC to Mr.K.S.Jeyaganeshan, Advocate sr 88164.

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PA(CO)
SP(27/11/2019)