

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.659 of 2019
and
C.M.P.No.19059 of 2019

Kalaimani

... Petitioner

Vs.

Munirathinam

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the HMOP. No.54 of 2018 on the file of the Sub Court, Palacode, Dharmapuri District and transfer the same to the file of the Family Court, Dharmapuri to be tried along with FCMC. No.83 of 2018.

For Petitioner : Mr.S.Satheesh kumar

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.54 of 2018 on the file of the Sub Court, Palacode, Dharmapuri District and transfer the same to the file of the Family Court, Dharmapuri to try along with FCMC. No.83 of 2018.

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between the petitioner and the respondent on 29.06.2015 at Thiru Aruleeswarar Thirukoil, Karimangalam as per Hindu Rites and Custom. After the marriage, the couple lived together for two years. Thereafter, the respondent and his family members stated ill-treating the petitioner as a servant and demanded dowry. The petitioner left the matrimonial home without any option and sent a legal notice to the respondent to take her back to the matrimonial home. Due to misunderstanding, the couple were living separately. Thereafter, the petitioner has filed a maintenance case in FCMC. No.83 of 2018 before the Family Court, Dharmapuri. The respondent/husband has filed a petition in HMOP. No.54 of 2018 before the Sub Court, Palacode, Dharmapuri District for restitution of conjugal rights. Due to financial issues, the petitioner/wife finds it difficult to attend the

hearing at two different places. Therefore, she seeks transfer of the case filed by the husband.

3. The learned counsel for the petitioner/wife would submit that the petitioner is living in her parental house and she is depending upon her aged parents for her livelihood. Due to financial issues, she is unable to meet her day to day expenses. Hence, she filed a maintenance case before the Family Court, Dharmapuri. If the case is transferred to the Family Court, Dharmapuri, no prejudice would be caused to the respondent. Hence, the petitioner came this Court by way of this petition, seeks transfer the case pending before the Sub Court, Dharmapuri to the file of the Family Court, Dharmapuri.

4. This Court ordered notice on 04.09.2019 and the same was served on the respondent. Till date, no vakalat has been filed on behalf of the respondent. 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 also perused the materials available on record. None appears on behalf of the respondent.

6. 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.54 of 2018 on the file of the Sub Court, Palacode, Dharmapuri District and transfer the same to the file of the Family Court, Dharmapuri, to be tried along with the case in FCMC.No.83 of 2018.

7. Accordingly, H.M.O.P.No.54 of 2018 pending on the file of Sub Court, Dharmapuri is withdrawn and transferred the same to the file of the Family Court, Dharmapuri to try along with FCMC.No.83 of 2018.

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

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rli

To

1.The Subordinate Judge,
Court, Palacode, Dharmapuri District .

2.The Judge,
Family Court, Dharmapuri.

+lcc to Mr.D.Selvaraju , Advocate SR.No. 85950

TR C.M.P. No.659 of 2019
and

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A.SK(29/11/2019)