

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.637 of 2019

and

C.M.P.No.18429 of 2019

Priya

... Petitioner

Vs.

P.Sasikumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw F.C.O.P.No.56 of 2019 on the file of Family Court, Namakkal and to transfer the same to the Family Court, Erode to be tried along with F.C.O.P.No.251 of 2019

For Petitioner : Mr.M.Guruprasad

For Respondent : Notice Served - No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw and transfer F.C.O.P.No.56 of 2019 on the file of the Family Court, Namakkal to Family Court, Erode.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 09.03.2015. As per the demand of the respondent and his family members 15 sovereigns of gold were given as dowry. Out of their wedlock the petitioner gave birth to a male child on 14.12.2015. The respondent/husband and his family members demanded Rs.1,00,000/- and 30 sovereigns of jewels as dowry. The petitioner expressed her parents inability hence she was driven out from the matrimonial house on 20.04.2017. Thereafter respondent/husband issued a legal notice on 24.05.2017 to the petitioner for restitution, in reply the petitioner also sent a legal notice to the respondent for reunion on 27.06.2019 but the respondent refused to receive the same. Thereafter the respondent had initiated divorce proceedings before the Family Court, Namakkal in F.C.O.P.No.56 of 2019 and kept quiet for two years. The petitioner filed a petition before the Family Court, Erode in F.C.O.P.No.251 of 2019 for restitution. Since the

respondent has not taken care of the petitioner and his child she also filed a maintenance application in M.C.No.28 of 2019 before the Family Court, Erode. The petitioner is staying at her parents house along with her minor child and she finds it difficult to travel from Erode to Namakkal. Hence sought for transfer.

3. This Court ordered notice to the respondent through Court as well as privately and the same was served on him. In spite of giving sufficient opportunities, the sole respondent has not entered into appearance before this Court either in person or through his counsel. Therefore, this court is inclined to pass orders on merits in accordance with law.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. A perusal of the documents would indicate that the petitioner is living at her parents' home along with her minor child and the respondent has not taken care of his wife and child. In these circumstances, she cannot force her parents to incur additional expenditure to attend the proceedings at the Family Court, Namakkal. Taking into consideration the well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. The consolidation of proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. Hence, this Court feels it appropriate to withdraw and transfer H.M.O.P.No.56 of 2019 from the Family Court, Namakkal to Family Court, Erode and to be tried in the same Court for joint trial.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Judge,
Family Court, Namakkal.

2. The Judge,
Family Court, Erode.

+1cc to Mr.M.Guruprasad, Advocate sr.99273

TR C.M.P. No.637 of 2019
and
C.M.P.No.18429 of 2019

bp(co)
nr 07/01/2020