

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.CMP. No.633 of 2019
and CMP.No. 18393 of 2019

S. Rajeswari

... Petitioner

Vs.

A. Jaya Anandh

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the proceedings in H.M.O.P.No.53 of 2019 on the file of the Sub Court, Tiruchendur and to transfer the same to Family Court, Coimbatore.

For Petitioner : Mr.J.Prithivi

For Respondent : Mr.R.P.Prathapsingh

O R D E R

The petitioner/wife has filed this Transfer Civil Miscellaneous Petition seeking withdrawal of proceedings in H.M.O.P.No.53 of 2019 pending before the Sub Court, Tiruchendur and transfer the same to the Family Court, Coimbatore.

2. The case of the petitioner is that she got married to the respondent/husband on 03.06.2013 in S.M.S. Mahal, Saravanapatti, Coimbatore as per Hindu Rights and Customs and it was registered in Sub Registrar Office, Gandhipuram on 17.04.2014 and a girl child namely Mahima Anand was born on 13.12.2016.

3. The respondent/husband was studying M.S 3rd year in Government Medical College in Madurai at the time of marriage and they started living at Madurai. The respondent/husband has filed divorce petition in H.M.O.P.No.53 of 2019 before the Sub Court, Tiruchendur stating that the petitioner/wife herein was not a dutiful wife and attempted suicide after taking tablets within 2 weeks after marriage and also the petitioner/wife has

behaved frantically and threatened the respondent that she will attempt suicide. It was also further alleged that she is seeking for divorce and treating him and his family with disrespect. It was also alleged that the respondent was appointed as a Doctor in Government Hospital, she refused to live with him in a rented house and left to her parent's house. The petitioner/wife did not challenge the allegations in the said petition, she did not allow anyone to see the girl child born to her, when she came back to live with her husband at Tiruchendur. The petitioner/wife stayed only four months with the respondent and deserted him and she is now living with her parent's house at Coimbatore.

4. Due to the dispute, the petitioner was started living with her parents at Coimbatore and she left the matrimonial house on 30.03.2019 and she did not return back. All these allegations were denied by the petitioner/wife. The respondent has further stated that the petitioner/wife was suffering from mental illness and disrespected the respondent's family members. Thus, the petitioner was forced out from the matrimonial house by the respondent/husband and the petitioner is now living in her parent's house along with her 2 years old daughter. Petitioner/wife is dependant on her parents, unemployed and she has to take care of the children and she could not travel from Coimbatore to Tiruchendur to attend the Court proceedings. Hence, she seeks to withdraw the H.M.O.P.No.53 of 2019 pending before the Sub Court, Tiruchendur and transfer the same to Coimbatore.

5. The learned counsel appearing for the respondent/husband submitted that the wife has no co-operated with the husband and hence, he filed the petition for divorce before the Sub Court, Tiruchendur and she was always trying to create problem and she was nagging the husband in the nights by talking irrelevant matters to the husband. Due to the same, the respondent/husband was not able to live with the petitioner/wife. Hence, he has filed the petition H.M.O.P.No.53 of 2019 for divorce with no other option. The learned counsel for respondent further submitted that the respondent/ husband, who is working as a Doctor in the Government Hospital will not be in a position to travel to Coimbatore and he seeks dispensing with the personal appearance before the Sub Court, Coimbatore.

6. Heard the learned counsel for petitioner and the learned counsel for respondent.

7. This Court is not inclined to pass any order of dispensing with the appearance. It is open to the

respondent/husband to file a petition seeking the said relief before concerned Family Court at Coimbatore and the same can be considered by the Family Court, Coimbatore.

With the above observations, this Transfer Civil Miscellaneous petition is allowed. The proceedings in H.M.O.P.No.53 of 2019 pending on the file of the Sub Court, Tiruchendur, is transferred to the file of the Family Court, Coimbatore. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge,
Tiruchendur.
2. The Judge, Family Court,
Coimbatore.

Copy To: The Section Officer, V.R.Section,
High Court of Madras, Chennai -104.

+1 cc to M/s.R.P.Pratap Singh, Advocate Sr.No. 88969
+1 cc to M/s.Kaithamalai Kumaran, Advocate Sr.No.88581

AKM/02.12.19/3P- 6C/

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