

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.699 of 2019
and
C.M.P.No.19798 of 2019

T.Anuradha @ Nandhini

... Petitioner

Vs.

Ashok Kumar.N.

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in HMOP. No.31 of 2016 on the file of the Sub court, Gingee and transfer the same to the file of the Sub Court, Tambaram.

For Petitioner : Mr.P.Sivamuruganatham

For Respondent : Mr.N.Elumalai

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the petition in HMOP. No.31 of 2016 on the file of the Sub court, Gingee and transfer the same to the file of the Sub Court, Tambaram.

2. The Respondent and the petitioner are the husband and wife. The marriage between the parties was solemnized on 22.02.2013 at V.K.C.Thirumana Mandapam, Gingee as per Hindu Rites and Custom. Due to difference of opinion, the couples were living separately and the respondent has filed a petition in HMOP. No.31 of 2016 for dissolution of marriage before the Sub Court, Gingee. The petitioner has also filed DVC. No.23 of 2016 pending before the Sub court, Tambaram. The petitioner/wife is the resident of Hasthinapuram, Chennai. She finds it difficult to travel from Chennai to Gingee to attend the Court proceedings. Therefore, she seeks transfer of the divorce petition filed by the husband, from Gingee to Sub Court, Tambaram.

3. The learned counsel for the petitioner/wife would submit that now the petitioner is living at Chennai along with her aged parents. She is unemployed and the respondent is not maintained the petitioner. It is very difficult for her to travel alone from Chennai to Gingee and she has to travel about 160 kms., which will take nearly five hours to attend the Court. Therefore, it will be appropriate to transfer the case filed by her husband from Sub court, Gingee to Sub Court, Tambaram.

4. The learned counsel for the respondent/husband would submit that the respondent has filed a petition in HMOP. No.31 of 2016 before the Sub Court, Gingee for dissolution of marriage. Due to non appearance of the petitioner, the she was set exparte in the above said proceedings and the petition in HMOP. No.31 of 2016 is annulled and divorce granted on 16.08.2017 itself. Thereafter, the petitioner has filed an interlocutory application in I.A.No.10 of 2019 in HMOP. No.31 of 2016 with a delay of 209 days and the respondent has also filed counter to that effect. The Petitioner is unemployed and therefore, she can very well attend the Court proceedings in Gingee and no prejudice would be caused to her. Hence, he prays to dismiss this petition.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6. The divorce petition filed by the respondent is dismissed on 16.08.2017 and the petitioner has filed an interlocutory application with a delay of 209 days and the same is pending before the Sub Court, Gingee. In the mean while, suppressing all the fact, the petitioner has filed the transfer civil miscellaneous petition before this Court to transfer the petition in HMOP. No.31 of 2016 on the file of the Sub Court, Gingee to the file of the Sub Court, Tambaram.

7. Considering the above facts narrated by both the parties, this Court is not inclined to allow the petition as prayed for by the petitioner.

8. Under these circumstances, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rli

To

1.The Sub Court, Gingee.

+1cc to Mr.P.Sivamuruganatham, Advocate sr.89846

+1cc to Mr.N.Elumalai, Advocate sr.89607

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and

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