

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.707 of 2019
and
C.M.P.No.20052 of 2019

D.Gayathri

... Petitioner

Vs.

J.Parthiban

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the F.C.O.P.No.2069 of 2015, pending on the file of the II Additional Family Court, Chennai and transfer the same to the Family Court, Vellore or to any other Court.

For Petitioner : Mr.W.M.Abdul Majees

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the F.C.O.P.No.2069 of 2015, pending on the file of the II Additional Family Court, Chennai and transfer the same to the Family Court, Vellore or to any other Court.

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between them on 09.02.2014 at K.G.N.Thirumana Mandapam, as per Hindu Rites and Customs. The respondent is the paternal aunt's son and the marriage between the petitioner and the respondent is an arranged marriage. The entire marriage expenses of more than Rs.4 lakhs was fully borne by the father of the petitioner. At the time of marriage, it is represented that the respondent is working in a reputed DHL Courier and was earning more than Rs.16,000/- per month. The petitioner was a minor aged about 14 years and was studying 10th standard, at the time of marriage. The respondent had the habit of suspecting and doubting even on small issues and started accusing the petitioner that she is having an affair with one of her paternal cousin. Further, the respondent scolded and physically abused the petitioner and also assaulted her with dire consequences. The petitioner unable to bear the torture given by the respondent, had left the matrimonial

home just to save her life. Thereafter, the respondent had filed F.C.O.P.No.2069 of 2015 before the II Additional Family Court at Chennai seeking the relief of dissolution of marriage, without expressing the fact that the petitioner was minor at the time of marriage. The petitioner filed a detailed counter affidavit in the above said FCOP, rebutting all his allegations. The petitioner states that she is residing at her parents home at Vellore and she has no separate income to travel from Vellore to Chennai. Therefore, she seeks transfer of the F.C.O.P.No.2069 of 2015 pending on the file of the II nd Additional Family Court, Chennai to Family Court, Vellore or to any other Court, wherein she has filed FCMC No.2 of 2017 before the Family Court, Vellore seeking for monthly maintenance of Rs.12,500/-. Since the respondent did not appear, the Family Court, Vellore had passed an exparte order dated 11.05.2017.

3. The learned counsel for the petitioner submitted that the petitioner is now residing at her parental house at Vellore and her parents also not doing well to accompany her for every date of hearing and further, she has no separate income to bear the travelling expenses. Therefore, She finds it difficult to travel from Vellore to Chennai. Because of this, she is facing physical and financial issues. Therefore, it will be appropriate to transfer the case filed by the husband from II Additional Family Court, Chennai to Family Court, Vellore.

4. This Court ordered notice to the respondent on 17.10.2019. Though the notice was served to the respondent on 15.10.2019, there is no representation on behalf of the respondent either in person or through counsel and the private notice was returned as "unclaimed". This Court again directed the Registry to verify whether any vakalat has been filed and the same was verified by the Registry and found that no vakalat has been filed.

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

6. Though notice was served on the respondent on 15.10.2019 but till date, the respondent has not taken any steps either to engage a counsel or to appear in person before this Court and hence, this Court is inclined to allow this Transfer Civil Miscellaneous petition filed by the wife in the absence of any objection from the respondent / husband.

7. Accordingly, the F.C.O.P.No.2069 of 2015 pending on the file of II Additional Family Court, Chennai is withdrawn and transferred the same to the file of the Family Court, Vellore.

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

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To

1. The Judge, II Additional Family Court, Chennai
2. The Judge, Family Court, Vellore

+1cc to Mr.W.M.Abdul Majeeb , Advocate SR.No. 95906

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A.SK(09/01/2020)