

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.C.M.P.No.723 of 2019
and
C.M.P.No.20427 of 2019

M.Yamini ... Petitioner /Respondent

Vs.

D.Hemanath ... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the F.C.O.P No.231 of 2019 on the file of the learned Family Court, Vellore and transfer the same to the learned Sub Court, Gudiyatham to be tried along with H.M.O.P.No.84 of 2019.

For Petitioner : Mr.N.Manokaran

For Respondent : M/s.S.Rajaranivarma

ORDER

The petitioner has filed this petition, seeking transfer of F.C.O.P No.231 of 2019, pending before the Family Court, Vellore and transfer the same to the Sub Court, Gudiyatham to be tried along with H.M.O.P.No.84 of 2019.

2. The petitioner is the wife and the respondent is the husband. The case of the petitioner is that she got married to the respondent on 26.02.2018 as per Hindu rites and customs at Maniprabu Marriage Hall, Nellorepettai, Gudiyattam. Further that, within 5 months of the matrimonial life, the respondent and his family members were ill-treated, harassed and humiliated her under the guise of demanding dowry and she was unceremoniously sent out of her matrimonial home on 12.11.2018. Thereafter, she filed H.M.O.P No.84 of 2019 before the Sub-Court, Gudiyatham for Restitution of Conjugal Rights under Section 9 of Hindu Marriage Act against the respondent.

3.The respondent/husband has filed F.C.O.P.No.231 of 2019 before the Family Court, Vellore stating that the petitioner/wife was not at all interested in this marriage and accepted only on compulsion of her parents. Further that, the petitioner started quarrels with the respondent and his parents and without information she left her matrimonial home and went to her parental home with her sridhana jewels.

4.The petitioner/wife denies all the allegations as false and frivolous and she has filed a petition under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights from her husband/respondent and the husband/respondent has not shown any interest in taking her back. Further, the petitioner states that she has filed a petition for restitution of conjugal rights before the Sub-Court, Gudiyatham and that her husband/respondent has entered appearance through his advocate and that the matter was posted for mediation. However, the Mediation did not fructify. Therefore, the petitioner prays for transferring F.C.O.P.No.231 of 2019 pending before the Family Court, Vellore to the Sub-Court, Gudiyatham to be tried along with H.M.O.P.No.84 of 2019, so that multiplicity of proceedings can be avoided.

5.The learned counsel for the petitioner submitted that since the petitioner is not employed and has no independent income, she cannot even meet out the travel expenses to attend the Court proceedings at Vellore and she needs somebody's help to travel a long distance from Vellore to Gudiyatham and then, return to Gudiyatham and also a life threat made by the respondent on various occasions.

6.The learned counsel for the respondent submitted that the matter can be transferred to any other Court in between Vellore and Gudiyatham.

7. Heard the learned counsel for the petitioner and the respondent and perused the materials available on records.

8.On perusing the records, it is seen that the petitioner has filed a petition for restitution of conjugal rights and the respondent has filed a petition for divorce in different Courts. Since, the petitioner/wife is residing at Gudiyatham, it will be reasonable and convenient for her if the case is transferred to Gudiyatham.

9. Hence, in view of the above facts and circumstances, this Court is of the view that F.C.O.P No.231 of 2019, which is pending before the Family Court, Vellore shall be transferred to the Sub Court, Gudiyatham to be tried along with H.M.O.P.No.84 of 2019 filed by the petitioner/wife.

10. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The proceedings in F.C.O.P No.231 of 2019 is withdrawn from the file of the Family Court, Vellore and transferred to the file of the Sub Court, Gudiyatham for disposal. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Judge,
Family Court,
Vellore.
2. The Subordinate Court,
Gudiyatham.

+1cc to Mr.N.Manokaran, Advocate Sr.90488
+2cc to Mr.S.Raja Ravivarma, Advocate Sr.90220

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srg 08/11/2019