

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.CMP.No.717 of 2019

and

C.M.P.No. 20259 of 2019

K.Ramya

...Petitioner

Vs

Raja

...Respondent

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case bearing H.M.O.P.No. 105 of 2019 on the file of the Learned Sub-Judge, Kallakurichi and transfer the same to the file of the learned Family Court Judge, Ariyalur.

For Petitioner : Mr.M.R.Jothimanian

For Respondent : Mr.N.Ranjeethkumar
No Appearance

J U D G M E N T

The petitioner herein is the wife of the Respondent, who filed the transfer petition seeking to withdraw HMOP No. 105 of 2019 pending before the Sub-Court, Kallakurichi, which was filed by the husband, seeking divorce under section 13(1)(ia)(ib) of Hindu Marriage Act and transfer the same to the Family Court at Ariyalur.

2. The learned counsel for the petitioner submits that there is a Sub-Court at Jayamkodam and has jurisdiction to decide the same and the husband also has no objection, if the matter has been transferred to the said Sub-Court at Jayamkodam.

3. The case of the petitioner is that she got married to the Respondent on 10.09.2017 at Sri Arulmigu Swarnapuriswarar Temple, Thenponparapi, in the presence of friends and relatives and the same was registered. The Respondent/husband working as Gardener in Dubai (Arab Emirates) and he left the petitioner immediately after 20 days of marriage to attend his work and wife made to stay with mother-in-law at Poondi. The petitioner herein faced all sorts of cruelties which was caused by mother-in-law and later the husband had taken her to Dubai and she

stayed for some time and at that point of time, there was no quarrel and had a happy married life. Subsequently on the advice of the mother-in-law, she was sent back to the India in the month of December, 2017 and again made to stay with her. The mother-in-law created a lot of trouble due to which the husband quarrelling the wife and the mother-in-law had also demanded dowry but the husband has not considered the same but was supporting the mother-in-law and she was humiliated by the family members of her husband and he had knowledge about the same. The husband came to India in the month of May, 2017 and she was forcefully sent to her parents house at Sirukalathur and on 20.05.2019 she had given a complaint to the Police that they are not allowing her to meet her husband. The Police conducted enquiry and advised the husband to stay with her in matrimonial home and mother-in-law should not interfere in their life and they are also accepted for the same. In spite of the promise made by him, he left to the Dubai in the month of June, 2019 by leaving his wife. On 04.06.2019, in spite of taking her back, he filed a divorce petition before the Sub-Court, Kallakurichi in HMOP NO. 105 of 2019 under the ground of cruelty. All these things were done at the instigation of his mother and they were living happily at Dubai. The petitioner is residing at Sirukalathur near Ponparappi Village and it will be difficult for her to travel to Kalluakurchi and attend proceedings and if the case is transferred to Jayamkodam, it will be convenient for her to attend the same.

4. This being the case, notice was issued to the Respondent and counsel Mr.N.Ranjeeth Kumar had filed Vakalath on 21.10.2019 and when the matter called on 23.10.2019 he sought for an adjournment and the matter is adjourned to 01.11.2019. On 01.11.2019, there was no representation on behalf of the counsel appearing for the respondent. Hence the matter was directed to listed on 06.11.2019 and even today when the matter is called there is no representation on behalf of the Respondent.

5. Hence this Court is inclined to take up the matter and decide the same as per the orders of the Hon'ble Supreme Court of India 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]. Further the petitioner has also given valid and sufficient reasons to transfer the case from Sub Court, Kallakurichi to Family Court, Ariyalur.

6. This Court is of the view that the convenience of the wife should be taken into account, while deciding the transfer petition and accordingly the wife is residing at Sirukalathur which is near to Jayamkodam Sub-Court and accordingly the petition filed by the husband pending before the Sub Court,

Kallakurchi is to be withdrawn and transferred to Sub-Court,
Jayamkodam.

7. Accordingly the Transfer Civil Miscellaneous Petition
stands allowed. No costs. Consequently, connected miscellaneous
petition stands closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Pns

To

1.The Subordinate Judge
Kallakurchi

2.The Subordinate Judge
Jayamkodam

+1 CC to Mr.M.R.Jothimanian, Advocate sr 92417.

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RSV(CO)
SP(09/12/2019)