

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.749 of 2019
and
C.M.P.No.20971 of 2019

Pramiladevi

... Petitioner

Vs.

M.Mayilvaganan

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the F.C.O.P No.252 of 2019 pending on the file of the Family Court, Erode and transfer the same to the file of Subordinate Court, Gudalur, The Nilgiris to be tried along with H.M.O.P.No.12 of 2019 pending on the file of the Subordinate Court, Gudalur, The Nilgiris.

For Petitioner : Mr.C.E.Pratap

For Respondent : Mr.L.Mouli

ORDER

The petitioner has filed this petition, seeking transfer of F.C.O.P No.252 of 2019, pending before the Family Court, Erode and transfer the same to the Subordinate Court, Gudalur to be tried along with H.M.O.P.No.12 of 2019, filed for divorce by the petitioner/wife.

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 15.05.2003, as per Hindu rites and customs at Sri Murugan Temple, Indico Nagar, Erumad, Guddalur Taluk, The Nilgiris, out of the wedlock a male child was born to her on 19.05.2004. Further that, the respondent ill-treated, harassed and humiliated her by demanding dowry. At the time of delivery, the respondent never came to see the new born child and after so many pleadings he came to see the child and never spent any expenses for her and her child. The attitude of the respondent is worsen and he picked quarrel in an intoxication manner and assaulted her blue and black. On 15.09.2009, the respondent brutally attacked her and left to her parental home with her child. The petitioner started working to

maintain her son and his studies at Erode. Thereafter, she filed divorce petition in H.M.O.P No.12 of 2019 before the Court of Subordinate Judge, Gudalur, The Nilgiris for divorce under Sections 13(1)(i-a) and 13(1)(i-b) of Hindu Marriage Act, 1955 against the respondent.

3.The respondent/husband has filed F.C.O.P.No.252 of 2019 before the Family Court, Erode stating that the petitioner/wife and her family members had very strong faith in astrology and horoscope due to this reason, his son school was changed several times. In the mean time, the petitioner got job in a jewellery shop, Erode. The salary of the respondent was utilized for family expense and their son's education and the salary of the petitioner for savings. On 2017, again with the consultation of astrologies, the petitioner and her family members changed her son Vinoth's education at Gudalur, by taking shelter of her parents. Further that, the petitioner on instigation of her family members, refused to go with the respondent.

4.The petitioner/wife denies all the allegations as false and frivolous and she has filed a petition under Sections 13 (1)(i-a) and 13(1)(i-b) of Hindu Marriage Act, 1955 seeking divorce from her husband/respondent and the husband/respondent has not shown any interest in the matrimonial life. Further, the petitioner states that she has filed a petition for divorce before the Court of Subordinate Judge, Gudalur, The Nilgiris and the respondent/husband filed Restitution of Conjugal Rights Petition in F.C.O.P.No.252 of 2019 before the Family Court, Erode. Therefore, the petitioner prays for transferring F.C.O.P.No.252 of 2019 pending before the Family Court, Erode to the Subordinate Court, Gudalur, The Nilgiris to be tried along with H.M.O.P.No.12 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 and she was taking care of her child, who was studying at Gudalur and she is not able to meet out the travel expenses to attend the Court proceedings at Erode and she needs somebody's help to travel a long distance i.e., 250 kms away from Gudalur.

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

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 divorce and the respondent has filed

a petition for restitution of conjugal rights in different Courts. Since, the petitioner/wife is residing at Gudalur, it will be reasonable and convenient for her if the case is transferred to the Subordinate Court, Ooty.

9. Hence, in view of the above facts and circumstances, this Court is of the view that F.C.O.P No.252 of 2019, which is pending before the Family Court, Erode and H.M.O.P.No.12 of 2019 pending before the Subordinate Court, Gudalur, The Nilgiris shall be transferred to the Subordinate Court, Ooty, The Nilgiris, based on the convenience of the parties. Since Gudalur is far away from Erode as well as, Erode is far away from Gudalur, when there is no proper transport facilities from Gudalur to Erode which is situated in Western Ghats, this Court is inclined to allow the Transfer Civil Miscellaneous Petition filed by the wife to the Subordinate Court, Ooty, Which will be convenient to both the parties.

10. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The proceedings in F.C.O.P No.252 of 2019 is withdrawn from the file of the Family Court, Erode and the proceedings in H.M.O.P.No.12 of 2019 is also withdrawn from the file of the Subordinate Court, Gudalur, The Nilgiris, and transferred to the file of the Subordinate Court, Ooty, The Nilgiris for disposal. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Family Court, Erode.

2. The Subordinate Court, Gudalur, The Nilgiris.

3. The Subordinate Court, Ooty, The Nilgiris.

+1cc to Mr.L.Mouli, Advocate SR.90130

+1cc to Mr.C.E.Pratap, Advocate SR.90477

TR.C.M.P.No.749 of 2019

and

C.M.P.No.20971 of 2019

(CO)

CB(17/12/2019)