

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.800 of 2019
and
C.M.P.No.22357 of 2019

N. Priya ... Petitioner
Vs.

S.Kumar Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the proceedings in HMOP. No.14 of 2019 on the file of the Family Court, Nilgiris and transfer the same to the file of the Family Court, Coimbatore.

For Petitioner : Mr.I.Jenkins William

For Respondent : Notice served - No appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the proceedings in HMOP. No.14 of 2019 on the file of the Family Court, Nilgiris and transfer the same to the file of the Family Court, Coimbatore.

2. The case of the petitioner is that the Respondent and the petitioner are husband and wife and they are relatives. The marriage was solemnized between the petitioner and the respondent on 01.02.1198 at YMCA, Ooty as per Hindu Rites and Custom. After marriage, the couples were set up a matrimonial home at Kengamudi, Nilgiris. Out of the lawful wedlock, a male child viz., Kirankumar was born on 04.12.1998. The respondent is an Engineer but he never used to be employed. Due to purchase of the land at site No.40, Eswara Nagar, Thudilaur, Coimbatore, the respondent received a sum of Rs.25 lakhs from the petitioner and taken 60 sovereigns of jewels from her. But he had not bought any land and spent or stashed away by the respondent.

3. The petitioner has joined postal service during the year 2002 and is presently working as Post Master at Coimbatore. For which ,the petitioner and the respondent were living at Coimbatore. Subsequently, during the year 2016, the respondent left the home and deserted the petitioner and his child. Later, the respondent has filed a petition for divorce in HMOP. No.14 of 2019 before the Principal Family Court, Nilgiris at Udhagamandalam. The petitioner/wife is working and residing at Coimbatore. She finds it difficult to travel from Coimbatore to Nilgiris to attend the hearings. Therefore, she seeks transfer of the divorce petition filed by the husband to Family Court, Coimbatore.

4. The learned counsel for the petitioner/wife would submit that the petitioner is working at Coimbatore. If the case is transferred to Coimbatore, on the days of Court hearing, she would apply for one day leave. If not, she would forced to take leave for a couple of days. This would be additional burden for the petitioner and it is not possible for her to leave the child alone and travel to Ooty for attending Court proceedings. The respondent is unemployed and therefore, he can very well attend the Court at Coimbatore, no prejudice would be caused to him. The learned counsel for the petitioner prays to transfer the petition filed by the husband to Family court, Coimbatore.

5. This Court ordered notice to the respondent through Court as well as privately and the same has been served on the respondent. Inspite of giving sufficient opportunities, the respondent is not appeared either in person or through his counsel before this Court. Hence, this Court is inclined to dispose of the matter on merits and in accordance with law.

6. It is seen from the records that the petitioner and the respondent are the husband and wife and due to the misunderstanding, they were living separately and the respondent has filed a divorce petition before the Court at Nilgiris. The petitioner is working woman and the child is under the care and custody of the petitioner.

7. Considering the convenience of the petitioner and physical hardship caused to the petitioner/wife, this Court is inclined to transfer the case from Nilgiris to Coimbatore. Accordingly, HMOP. No.14 of 2019 pending on the file of Family Court, Nilgiris is withdrawn and transferred to the file of any one of the Family Court, Coimbatore.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

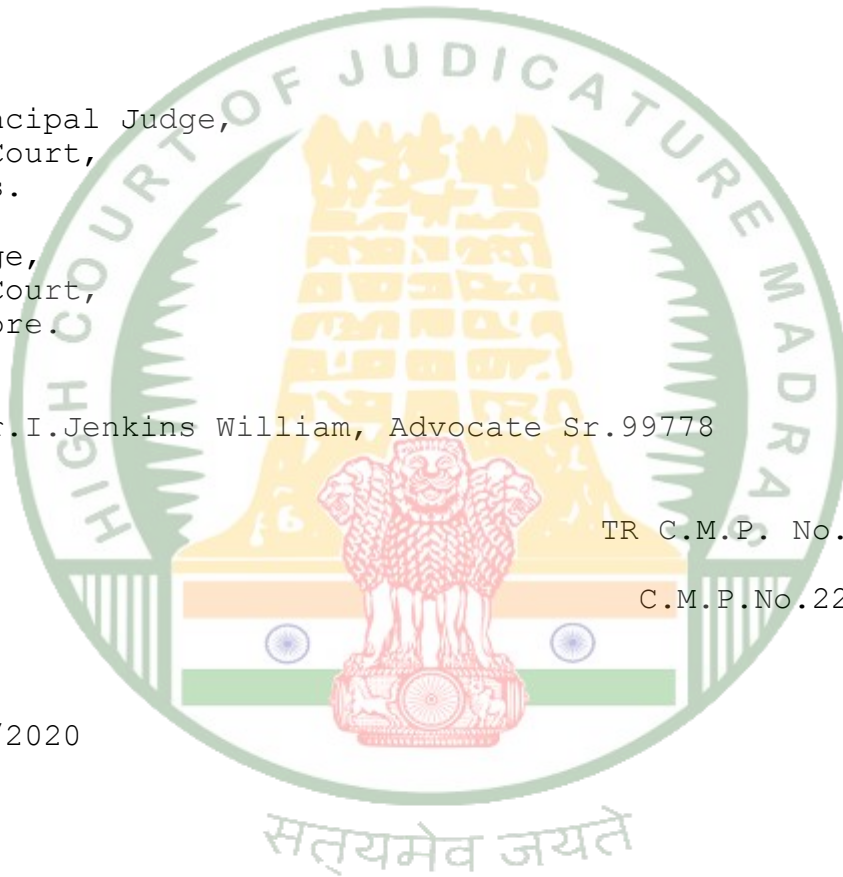
1.The Principal Judge,
Family Court,
Nilgiris.

2.The Judge,
Family Court,
Coimbatore.

+1cc to Mr.I.Jenkins William, Advocate Sr.99778

TR C.M.P. No.800 of 2019
and
C.M.P.No.22357 of 2019

kk[co]
srg 07/02/2020



WEB COPY