

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.11.2019
CORAM:
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
TR.C.M.P.No.806 of 2019
and
C.M.P.No.22499 of 2019

Tamilarasi

... Petitioner/Respondent

Vs.

Prabu

... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw H.M.O.P.No.126 of 2019 on the file of the principal sub court at Tindivanam and to transfer the same to the Family Court at Chennai.

For Petitioner : Mr.M.Selvakumar
For Respondent : Mr.M.Krishnamoorthy

ORDER

The present Transfer Civil Miscellaneous petition has been filed by the petitioner/wife, seeking withdrawal of H.M.O.P.No.126 of 2019, filed by the respondent/husband seeking for divorce before the Principal Sub Court, Tindivanam and to transfer the same to any one of the Family Courts at Chennai.

2.The case of the petitioner is that she got married to the respondent on 02.07.2010 at Maragathambigai Thandineeshawar Thirumanamandabam at Tindivanam as per Hindu rights and customs. Further, 20 sovereigns of gold ornaments, Rs.2,00,000/- for buying four wheeler and other household materials were given as sridhana by the parents of the petitioner to the respondent. The marriage expenses were also borne by the parents of the petitioner. After the marriage, the petitioner and the respondent were living happily for some time. However, the respondent used to go out with his friends and came home late, without informing the petitioner.

3.Out of the wedlock, a male child was born to them, namely Deepan Raj, who is aged about 7 years and is studying in a private school in Chennai. The respondent and his parents used to demand for more dowry from the petitioner's parents and the

petitioner's brother who is working in Dubai used to send money to the respondent's account to keep his sister happy. A sum of Rs.3,00,000/- was paid by her brother to the respondent as dowry when their child was born. The petitioner's parents had purchased a land in Puducherry in petitioner's name and when the respondent came to know of the same, he demanded to transfer the property in his name. Further, the respondent threatened the petitioner that if the property was not transferred to his name then, he would drive her away from the matrimonial home. Fearing ramification, the petitioner transferred the property to the respondent's name.

4. Further, the respondent demanded for some more money for starting a business and started quarrelling with the petitioner. Thereafter, on 08.08.2019 the respondent sent the petitioner away from home, following which, the petitioner preferred a complaint before the All Women Police Station, Tindivanam, who in turn gave CSR No.256 of 2019. The Police officials directed the respondent to appear in person. Immediately, the petitioner filed a petition for divorce before the Principal Sub Court, Tindivanam in order to evade the enquiry.

5. The petitioner visited the respondent and requested him to join the matrimonial home but, he refused and humiliated her and further, refused to speak with her. The respondent has thereafter filed a divorce petition in H.M.O.P.No.126 of 2019 before the Principal Sub Court at Tindivanam on the grounds of cruelty and desertion.

6. The learned counsel for the petitioner submitted that the petitioner and her son are living with her aged parents and it is very difficult for her to travel along with her child, who is studying in a private school in Chennai, for attending the Court proceedings. He also added that the respondent is very influential person in their area and can hamper the evidence in the above said divorce petition and further, they may threaten the petitioner and prevent her from attending the Court proceedings. Hence, he sought for transfer of H.M.O.P.No.126 of 2019 on the file of the Principal Sub Court, Tindivanam to the Family Court at Chennai.

7. The learned counsel for the respondent submitted that the respondent is a law abiding citizen and there will not be any hindrance for the petitioner to appear before the Principal Sub Court, Tindivanam. He also denies all the allegations stated in the affidavit filed in support of the transfer civil miscellaneous petition. He further submitted that a time limit can be fixed by this Court for the early disposal of the said

divorce petition pending before the Principal Sub Court, Tindivanam.

8. In view of the above facts and circumstances and that the petitioner/wife is unemployed and her son is studying in a private school in Chennai and in view of the rulings of the Hon'ble Supreme Court 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]., this Court is inclined to allow the Transfer Civil Miscellaneous Petition and the Principal Sub Court, Tindivanam is directed to withdraw H.M.O.P.No.126 of 2019 pending before the Principal Sub Court, Tindivanam and transfer the same to the Principal Family Court, Chennai within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected civil miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal Sub Court,
Tindivanam.

2.The Principal Family Court,
Chennai.

+1cc to Mr.M.Krishnamoorthy, Advocate sr.93892

+1cc to Mr.N.Naresh, Advocate sr.93721

TR.C.M.P.No.806 of 2019

and

C.M.P.No.22499 of 2019

rsv(co)
nr 14/02/2020