

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

TR.C.M.P.No.850 of 2019
and C.M.P.No.23375 of 2019

Kowsalya ... Petitioner/Respondent

-VS-

N.Vigneshwaran ... Respondent/Petitioner

PRAYER: Petition is filed under Section 24 of Code of Civil Procedure to withdraw the H.M.O.P.No.486 of 2019, pending on the file of Hon'ble Family Court, Salem and to transfer the same to the Hon'ble Subordinate Court, Coonoor.

For Petitioner : Mr.A.R.Suresh

For Respondent : Mr.S.Mukunth

For M/s.Sarvabhauman Associates

O R D E R

The present petition has been filed to transfer the case in H.M.O.P.No.486 of 2019, pending on the file of Family Court, Salem to the file of Subordinate Court, Coonoor.

2. It is the case of the petitioner that she had lodged a Domestic Violence case in D.V.M.C.No.6 of 2019 before the Judicial Magistrate, Coonoor against the respondent and his family members and as a counter blast, the respondent / husband has filed a petition in H.M.O.P.No.486 of 2019 before the Family Court, Salem. It is stated by the petitioner that her marriage with the respondent took place on 08.03.2018 and she had lived with the respondent in the matrimonial home along with his family members. It is further stated by the petitioner that the respondent has worked in a Prolific HR Consultants (India) Ltd., Bangalore and therefore, set up a matrimonial home in Bangalore on 20.05.2018.

2.1. It is further stated by the petitioner that she is unemployed, thereby totally depending upon her parents for her livelihood and she finds it difficult to attend the proceedings in Salem on every hearing in respect of H.M.O.P.No.486 of 2019. Therefore, it is prayed that much hardship would be caused to the petitioner in the event of non-transfer of the case to the Subordinate Court, Coonoor.

2.2. It is submitted by the petitioner that she will take all steps to get the Domestic Violence case in D.V.M.C.No.6 of 2019 pending before the Judicial Magistrate, Coonoor, transferred to the the Subordinate Court, Coonoor and till such time, she will not precipitate the matter in the Judicial Magistrate Court and will file necessary application, with a request to keep the criminal case in abeyance till the matter is transferred to the Subordinate Court, Coonoor.

3. On the contrary, the respondent has contended that he was employed as an Executive in Bangalore, earning a salary of Rs.10,000/- and the petitioner lived with him along with his parents from 08.03.2018 till 25.04.2018. From the date of marriage, the petitioner started misbehaving with him indifferently, apart from abusing and quarrelling with him without any rhyme or reason. It is further contended that on account of unbearable torture meted out at the hands of his wife, he has filed HMOP No.486 of 2019 for dissolving the marriage and after coming to know of the same, she has filed a frivolous complaint under the Domestic Violence Act against him and his family members with a sole intention to drag on the proceedings in the divorce petition and to make the respondent to run from pillar to post, by filing a criminal case against him in a different Court. Hence, it is prayed that the present petition has no legs to stand and is liable to be dismissed.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. It is seen that the petitioner has already initiated a domestic violence case before the Judicial Magistrate, Coonoor, which is pending as D.V.M.C.No.6 of 2019 and the divorce petition instituted by the respondent / husband in HMOP No.486 of 2019 is pending before the Family Court, Salem. It is pertinent to mention here that the respondent has to necessarily appear before two different Courts in respect of the same

matrimonial issue and therefore, as rightly pointed out by the petitioner, if the divorce petition is transferred to Coonoor, it will be convenient for the respondent himself to appear before two different Courts situated in one locality on the same day.

6. The petitioner / wife has also undertaken not to speed up the criminal case before the Judicial Magistrate Court, Coonoor, till such time the divorce petition and the domestic violence case are taken up together and heard by the Subordinate Court, Coonoor.

7. In view of the afore-stated circumstances and in the interest of both parties, the Transfer Civil Miscellaneous Petition is allowed, with a direction to the Family Court, Salem to transfer the case in H.M.O.P.No. 486 of 2019 to the file of the Subordinate Court, Coonoor, within a period of two weeks from the date of receipt of a copy of this order. In the meanwhile, the Petitioner shall also take earnest steps to transfer the case in D.V.M.C.No.6 of 2019 pending before the Judicial Magistrate, Coonoor to the file of the Subordinate Court, Coonoor, so that both the cases can be tried by one Court and given quietus. The Subordinate Court, Coonoor, after transfer of both the divorce petition and the domestic violence case to its file, is directed to take up the matters together on the same day and proceed with the same, without adjourning the matters beyond thirty working days at any point of time and bring the issues in both matters to a logical end as expeditiously as possible. Since the Judicial Magistrate, Coonoor is not a party to this petition, Registry is directed to communicate the above order to the Judicial Magistrate, Coonoor forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To:

1.The Family Court Judge,
Salem.

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2.The Subordinate Judge,
Coonoor.

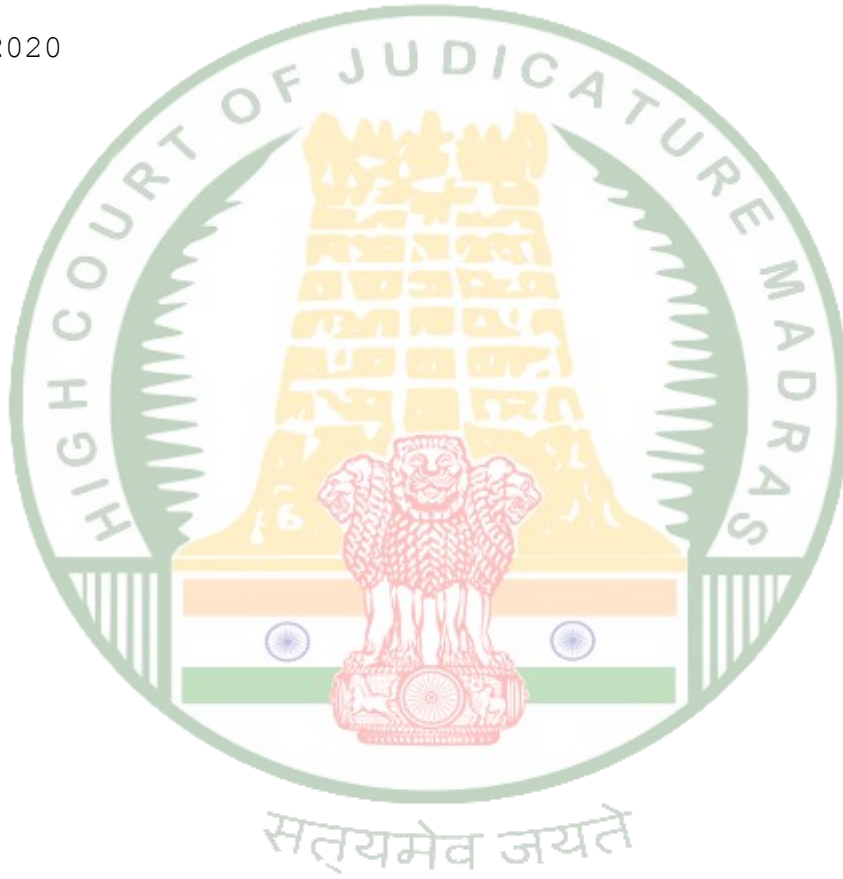
3.The Judicial Magistrate,
Coonoor.

+1cc to Mr.A.R.Suresh, Advocate sr.102901

+1cc to M/s.Sarvabhauman Associates, Advocate sr.102944

TR.C.M.P.No.850 of 2019

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