

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.851 of 2019
and
C.M.P.No.23385 of 2019

Suganya

... Petitioner

Vs.

R.Immanu Jeyam

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw the I.D.O.P No.83 of 2019 pending on the file of the Principal District and Sessions Court at Thiruvilliputhur and transfer the same to the V Additional Family Court, Chennai to be tried along with the O.P.No.3013 of 2019.

For Petitioner : Mr.S.M.Vidyapathi

For Respondent : Mr.R.Rajesh Kumar

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw and transfer I.D.O.P.No.83 of 2019 pending on the file of the Principal District and Sessions Court, Thiruvilluputhur and transfer the same to the V Additional Family Court, Chennai to be tried along with O.P.No.3013 of 2019.

2. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 26.08.2016. Out of their wedlock, the petitioner gave birth to a female child on 13.11.2017. The respondent/husband was extremely abusing, insulting and ill-treating the petitioner often and never took care of the child and the petitioner. The respondent filed I.D.O.P.No.83 of 2019 before the Principal District and Sessions Court, Thiruvilliputhur. At present the petitioner is living with her aged mother along with her minor child at Chennai. The respondent is working at Chennai and has filed the I.D.O.P.No.83 of 2019 for dissolution of marriage before the Principal District and Sessions Court, Thiruvilliputhur. The

petitioner also filed I.D.O.P.No.3013 of 2019 seeking to dissolve the marriage before the V Additional Family Court, Chennai. The petitioner finds difficult in travelling from Chennai to Thiruvilliputhur and she cannot take leave often and she is the only bread winner in her family. Whereas, if the I.D.O.P.No.83 of 2019 filed by the respondent is transferred to the file of the V Additional Family Court, Chennai, it will be easy and convenient for her to take care of all the matters.

3. The learned counsel for the respondent/husband would submit that the respondent has denied all the averments made by the petitioner and he has no objection to transfer the case to Chennai.

4. Heard both side and perused the materials available on record.

5. A perusal of the documents would indicate that the petitioner is living at her mother's home and the respondent has not taken care of his wife and child. Considering the fact that both the petitioner and the respondent are working at Chennai and also the well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by 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]. The consolidation of proceedings and the determination of the same by one and the same Court would be beneficial to both the parties and by way of the same, conflict of decisions could also be avoided. Hence, this Court is of the opinion that it is appropriate to withdraw and transfer I.D.O.P.No.83 of 2019 from the Principal District and Sessions Court, Thiruvilliputhur to V Additional Family Court, Chennai and tried together in the same Court, for joint trial. The Presiding Officer, Principal District and Sessions Court, Thiruvilliputhur is directed to transmit all the records pertaining to I.D.O.P.No.83 of 2019 within four weeks from the date of receipt of a copy of this order and to be tried together in the same Court, for joint trial.

5. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Judge, Principal District and Sessions Court,
Thiruvilliputhur

2.The Judge, V Additional Family Court, Chennai.

+2ccs to Mr.S.M.Vidyapathi , Advocate SR.No. 96346

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and

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A.SK(20/01/2020)