

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.235 of 2017

K.Baby .. Petitioner

-vs-

R.Raja .. Respondent

Prayer:

Transfer Civil Miscellaneous Petition filed under Section 24 (I) (b) (II) of the Code of Civil Procedure to withdraw the H.M.O.P.No.136 of 2016 from the file of the Court of the learned Subordinate Judge, Ranipet and transfer the same to the file of the Mahila Court, Cuddalore District.

For Petitioner :: Mr.S.Sathia Chandran
For Respondent :: No appearance

ORDER

Mrs.K.Baby, W/o R.Raja, the respondent herein has come to this Court seeking an order to withdraw the pending H.M.O.P.No.136 of 2016 from the file of the learned Subordinate Judge, Ranipet and transfer the same to the Mahila Court, Cuddalore District.

2. Learned counsel for the petitioner submitted that based on the claim made by the respondent that he was a B.E. Degree holder and working as Manager in a private software company at Pondicherry and also earning a good salary, the marriage between the petitioner and the respondent took place on 6.2.2005 as per the Hindu rites and customs at Lalitha Mahal, Manjakuppam, Cuddalore and both of them set up the marital home at No.6/24, Kaveri Nagar, Kondur Post, Cuddalore and lived there as husband and wife. As she is also a B.E.Degree holder in Civil Engineering, she got appointment as a Lecturer in Krishnasamy Memorial Polytechnic College, Cuddalore. Subsequently, it came to light that the respondent had bluffed the petitioner that he was a Graduate Engineer which, on verification, was found untrue. Therefore, the petitioner suggested him to do the course in Diploma in Acupuncture and also assisted him

financially. After obtaining the diploma, her husband started a private clinic. But shockingly the petitioner came to know that her husband was having illicit relationship with a girl. Finally, due to the strained relationship, the respondent issued a lawyer's notice on 2.3.2016 calling upon the petitioner to join the respondent as they were living separately. Later on, he also filed H.M.O.P.No.136 of 2016 for divorce under Section 13 (1)(ib) of the Hindu Marriage Act on the ground of desertion. As the petitioner is also working as Lecturer in Krishnasamy Memorial Polytechnic College and the distance is also more than 100 kms., from Cuddalore to Ranipet and is also having a 13 year old son, the petitioner is finding it difficult to leave her son before leaving for Court hearing. Therefore, she has been advised to come to this Court seeking transfer of the pending H.M.O.P.No.136 of 2016 from the Sub Court, Ranipet to the Mahila Court at Cuddalore.

3. This Court issued notice to the respondent to the address shown in the H.M.O.P.No.136 of 2016, but the same was returned with an endorsement "no such addressee". This Court also gave liberty to the petitioner's counsel to serve on the learned counsel who appeared before the lower Court. Accordingly, it was served on 23.4.2018 and the proof of service also has been filed along with the acknowledgment card. The affidavit of proof of service dated 23.4.2018 clearly shows that the service is complete. Yet, the respondent has not turned up to this Court to reply. That shows that the respondent has no objection for allowing the transfer civil miscellaneous petition. Accordingly, the Tr.C.M.P.No.235 of 2017 stands allowed and the H.M.O.P.No.136 of 2016 pending with the Sub Court, Ranipet is withdrawn and transferred to the Mahila Court, Cuddalore. The learned Judge, Mahila Court, Cuddalore is hereby directed to take up the matter and dispose of the same expeditiously on merits after hearing the parties. Consequently, C.M.P.No.4194 of 2017 stands closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge
Ranipet

2. The Judge
Mahila Court, Cuddalore

+lcc to Mr.S.Sathia Chandran, Advocate sr.49573

Tr.C.M.P.No.235 of 2017

mr(co)
nr 23/07/2019



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