

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.769 of 2018
and C.M.P.No.18919 of 2018

C.Jayamalar

..

Petitioner

versus

M.Ramesh Kumar

...

Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw D.O.P.No.210 of 2018 pending on the file of the Principal District Court, Coimbatore and transfer the same to the file of the Principal District Court, Vellore.

For Petitioner : M/s.M.Sangeetha

For Respondent : Mr.K.Sudhakar

O R D E R

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw the case i.e. D.O.P.No.210 of 2018 pending on the file of the Principal District Court, Coimbatore and transfer the same to the file of the Principal District Court, Vellore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 20.02.2014 at CSI Emanuel Church, Coimbatore, as per Christian customs and rituals. During the time of marriage, the respondent married the petitioner as second wife. Admittedly, through first wife [now deceased], the respondent is having two children, viz., R.M.Rojersmith and R.M.Prabaharsmith, they are now studying in 8th standard and LKG respectively at Sulur, Coimbatore. As of now, both the children are under the care and custody of the respondent.

3. After the marriage, both the petitioner and respondent were set up the matrimonial home at Sulur and they were lived together for a considerable period. After some time, from the date of marriage, difference of opinion arose between the petitioner and respondent, resultantly, the petitioner left the matrimonial home and residing along with her parents at Vellore. As of now, the petitioner is working as a Teacher in the Government School and earning sufficient income.

4. After leaving the matrimonial home by the petitioner, the respondent has filed a petition against the petitioner before the Principal District Court, Coimbatore, under Section 10(vii)(ix) of the Divorce Act, 1869, for annulling the marriage. The said petition is now pending before the Principal District Court, Coimbatore, as D.O.P.No.210 of 2018. In the said circumstances, the petitioner has approached this Court by way of filing the present Transfer Civil Miscellaneous Petition for the relief as stated supra.

5. According to the petitioner, after the marriage, the respondent has not permitted the petitioner to go to her parents home. The efforts made by the elders in respect to the dispute arising between the petitioner and respondent was ended in futile. Since the petitioner is working as a Government Teacher in Vellore District, it is very difficult for her to attend the Court proceedings at Coimbatore. Hence, allowing this petition in favour of the petitioner is more convenient in attending the Court proceedings at Vellore.

6. Per contra, the learned counsel appearing for the respondent would contend that the respondent is having two children and as of now, both of them are studying in the Schools and they are under the care and custody of the respondent, if IDOP pending on the file of the Principal District Court, Coimbatore, is transferred to the Principal District Court, Vellore, it is very much inconvenient for the respondent. Further, it is the contention that the respondent being the Pastor in a Church, he is not having any sufficient income to meet out the travelling expenses.

7. Now on considering the submissions made on either side, even though the petitioner being a lady, considering the

fact that she is having sufficient income, it is very easy for her to travel from Vellore to Coimbatore to attend the Court proceedings. Considering the situation of the respondent, it is very difficult for him in attending the Court proceedings at Vellore along with his two children. In respect to the monetary aspect, as per the case of the respondent, the petitioner derived more income than that of the respondent. Apart from that, since the D.O.P. pertaining to this petition is pending before the Principal District Court, Coimbatore, the appearance of the petitioner and respondent is not mandatory, for each and every hearing.

8. Accordingly, in view of the above said discussions, I am of the considered view that the prayer sought for by the petitioner is devoid of merits. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

- 1.The Principal District Judge,
Principal District Court, Coimbatore.
- 2.The Principal District Judge,
Principal District Court, Vellore.

+1cc to M/s.T.P.Prabakaran, Advocate sr.no.6898
+1cc to Mr.K.Sudhakar, Advocate sr.no.6989

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nr 28/02/2019

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