

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.CMP.No.824 of 2018

D.Dhanalakshmi

...Petitioner

..Vs..

B.Venkatesan

...Respondents

Prayer:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the H.M.O.P.No.282 of 2017 before the Hon'ble Sub Court at Ponneri, Thiruvalluvar District and transfer the same to the Hon'ble Sub Court Chengalpattu, Kanchipuram District.

For Petitioner : Ms.Gandhi R.K.

For Respondents : Respondent refused

JUDGMENT

The Petitioner herein is the wife of the Respondent, who filed the present transfer petition to withdraw the HMOP No. 282 of 2017, pending before the Sub-Court at Ponneri, Thiruvalluvar District and transfer the same to the Sub-Court, Chengalpattu, Kanchipuram District.

2. The learned counsel for the petitioner submits that the petitioner has got married to the Respondent on 09.07.2008 at Sri Srinivasa Thirumana Mandapam, Molagalamman Kovil Street, Vallkkottai, Perumanthur Vattam, Kanchipuram District as per Hindu rites and customs. The petitioner got married to the respondent as a 2nd wife, as the 1st wife of the respondent namely Chandrakala had committed suicide and died on 03.09.2006. The respondent was working at private Halla Bricks Company at Medavakkam, at the time of marriage and after the marriage, they were residing at Medavdakkam, Sivakami Nagar and after few months the said company has opened a branch at Maampakkam, Kaandikai village and they have shifted their residence to that place. As the Respondent is a drunkard person, who drinks heavily, it was found that the fertility rate was not proper, as they consulted at Sisu Baby Hospital at Salem and Mogapar MMM Hospital and there was no conjugal relationship between the parties and he forced her to commit suicide and further he also tried to set fire but however, she had escaped from the house with great difficulties. As the husband did not performed his duties as a husband, the wife had mentioned the same and

immediately he filed a petition, seeking for divorce with false reasons and allegations in HMOP No. 282 of 2017 before the Sub-Court, Ponneri, Thiruvalluvar District and she had also appeared before the said Court and received the copies of the petition. The petitioner is now residing at Guduvancheri, who has got spinal card problem and she is finding difficult to attend every hearing at Ponneri and husband also threatened her that if she comes to Court to attend the case he will kill her. The petitioner has no parents to support her and only her sister is supporting her and due to physical threat, she prays for transfer from Sub-Court Ponneri, Thiruvalluvar District to Sub-Court Chengalpattu, Kanchipuram District.

3. Notice was directed to be issued to the respondent, who is residing at Kanniamman Pettai, Andarkuppam, Chennai - 103, to the address given by him in HMOP No. 282 of 2017, before the Sub-Court, Ponneri, Thiruvalluvar District. Notice sent through Court has been returned as "refused by the party" and private notice sent also has been returned as refused.

4. In view of the refusal by the Respondent, this Court is of the view that the respondent was intentionally refused a notice copy. Hence, he has no intention to come and appear before this Court to defend his case.

5. In view of the above facts, this Court is inclined to allow the petition filed by the wife seeking transfer from Sub-Court, Ponneri, Thiruvalluvar District to Sub-Court Chengalpattu, Kanchipuram District.

6. Accordingly the Transfer Civil Miscellaneous Petition stands allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Ponneri, Thiruvallur District.
- 2.The Subordinate Judge, Chengalpattu, Kanchipuram District.

+1cc to M/s.R.K.Gandhi, Advocate Sr.No.92644

AKM/16.12.19 /2p-4c/

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