

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2019

Coram

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

Tr. C.M.P. No.803 of 2018

and

CMP.No.19795 of 2008

A. Ramya

Petitioner

Vs

P. Balaji

Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw FCOP No.456 of 2018 from the file of Family Court, Salem and to transfer the same to the file of Subordinate Court, Omalur.

For Petitioner : Mr. G. Surya Narayanan

For Respondents : No appearance

O R D E R

The Petitioner herein is the respondent in FCOP No.456 of 2018 pending on the file of Family Court, Salem. This application has been filed under Section 24 of Code of Civil Procedure for the relief to withdraw the above said case from the file of Family Court, Salem and to transfer the same to the file of Subordinate Court, Omalur.

2. The petitioner is the wife and the respondent is her husband. The marriage between the petitioner and the respondent was solemnized on 02.12.2016 at Suganeswarar Temple as per Hindu Rites and Customs. Due to the wedlock, the petitioner gave birth to one girl child. Now, the age of the said child is 1 year. After gave birth to the said child, due to the difference of opinion arose between the petitioner and the respondent, the petitioner left the matrimonial home and residing with her parents in Omalur.

3. After leaving the matrimonial home by the petitioner, the respondent herein has filed an application against the petitioner for the relief of divorce. As of now, the said application has been pending with the Family Court, Salem in FCOP No.456 of 2018. In the said circumstances, the petitioner has approached this Court by way of filing this

application for the relief as stated in the 1st Paragraph of this Order.

4. In respect to the respondent, even though, he was served with the Notice on 22.11.2018, he has not turned up before this Court either personally or through an Advocate.

5. According to the petitioner, being a lady, along with 1 year old baby, it is very difficult for her to attend the Court proceedings at Salem. Further, the petitioner is not having any independent income and she is depending upon her parents even for her day to day expenses.

6. Now, on considering the submission made by the Counsel appearing for the petitioner, it is necessary to see other circumstances also. In fact, the distance between Salem and Omalur is just 15 kms. So, we can not come to the conclusion that travelling 15 kms for reaching the Court is not a difficult task to the petitioner. More than that, the Family Court, Salem is constituted only for deciding the dispute arising out of the matrimonial issues. In the said circumstances, if the said case is transferred to Subordinate Court, Omalur, it is very difficult for the petitioner to see the finality of the said case.

7. In the light of the above discussions, I am of the considered opinion that the reason stated by the petitioner does not have any merits and considering the fact that the petitioner is having 1 year old child, it is appropriate to give some directions to the Presiding Officer of the Family Court that the appearance of the petitioner would not be insisted for un-effected hearings. Accordingly, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vrn
To

The Family Court, Salem

Tr. C.M.P. No.803 of 2018
and
CMP.No.19795 of 2008

SSM(15/02/2019) .