

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. 837 of 2018 and
CMP No.20753 of 2018

M. Sharmila .. Petitioner

Vs

M. Karunakaran ... Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw FCOP No.172 of 2017, from the file of Family Court at Chengalpat and to transfer the same to Family Court, Pondicherry for joint trial along with HMOP No.100 of 2018.

For Petitioner : Mr. M. Dhayalan

For Respondent : No appearance

O R D E R

The petitioner is the respondent in FCOP No.172 of 2017 pending on the file of Family Court, Chengalpat. This application has been filed by the petitioner under Section 24 of Code of Civil Procedure, for the relief to withdraw the above said case from the file of Family Court, Chengalpat and to transfer the same to the file of Family Court, Pondicherry for joint trial along with HMOP No.100 of 2018.

2. The petitioner is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 20.01.2016 at Marva Mahal, Chengalpat as per Hindu Rites and Customs. After the marriage, both the petitioner and the respondent were residing in the matrimonial home for a considerable period. Thereafter, due to the difference of opinion, the petitioner left the matrimonial home and resided with her parents in Pondicherry.

3. After leaving the matrimonial home by the petitioner, the respondent filed an application for the relief

of Restitution of Conjugal Rights. The said case has been pending with Family Court, Chengalpat in FCOP No. 172 of 2017. After knowing the fact that the respondent had filed an application for the relief of Restitution of Conjugal Rights, the petitioner filed an application before the Family Court, Pondicherry in HMOP No.100 of 2018, for the relief of divorce. In the said circumstances, the petitioner has approached this Court for the relief as stated in the 1st Paragraph of this Order.

4. In respect to the respondent, he was served with the Court Notice as early as on 11.12.2018. Subsequently, till date he has not turned up either personally or through Advocate.

5. According to the petitioner, the distance between Chengalpat and Pondicherry is about 40 kms. After travelling such a long distance, it is very difficult for the petitioner to attend the Court proceedings at Chengalpat. Hence, for the sole reason stated above, she has approached this Court by means of filing this application.

6. Now, on going through the affidavit filed by the petitioner, immediately after separation, with an intention to reunion, the respondent has filed an application for Restitution of Conjugal Rights. But, at the same time, after entering appearance in the above said case, the petitioner has filed an application before the Family Court, after a lapse of 1 year, which shows that the petitioner voluntarily filed an application for divorce without considering the request made by the respondent. In the said circumstances, we can not hold that the petitioner is facing difficulty in attending the Court proceedings.

7. However, the distance between Pondicherry and Chengalpat is nearly about 90 kms. Since both the cases i.e pending before Family Court, Chengalpat and Pondicherry are pertaining to the dispute with regard to the matrimonial life of the petitioner and the respondent, it is necessary to try both the matters jointly for avoiding the conflicting Judgments. So, considering the facts and circumstances, this Court comes to the conclusion that Family Court, Villupuram is the proper Court, since it is situated in between Pondicherry and Chengalpat.

8. In the light of the above discussions, the case in FCOP No.172 of 2017, pending on the file of Family Court, Chengalpat and the case in MCOP No.100 of 2008 pending on the file of Family Court, Pondicherry are ordered to be withdrawn from the respective Courts and to transfer the same to the file of Family Court, Villupuram. The Presiding Officers of the Family Court, Chengalpat and Pondicherry are directed to

transmit the respective case records to Family Court, Villupuram, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the Presiding Officer of the Family Court, Villupuram is directed to dispose of both the cases by joint trial or simultaneous trial. It is left open to the Presiding Officer of the Family Court, Villupuram to decide for joint trial or for simultaneous trial. Accordingly, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Subsequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge, Family Court, Chengalpat.
2. The Judge, Family Court, Pondicherry.
3. The Judge, Family Court, Villupuram.

+1 cc to Mr.V.Ramana Reddy, Advocate SR.No.5745

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SV(CO)
CSL/27.03.2019

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