

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.819 of 2018  
and C.M.P. No.20122 of 2018

R.Aishwarya ... Petitioner/Respondent

-vs-

S.Kamakshinathan ... Respondent /Petitioner

Prayer: Petition filed under Section 24 of C.P.C to withdraw H.M.O.P. No.187 of 2018 pending on the file of the Subordinate Judge, Kovilpatti and transfer the same to Family Court, Coimbatore.

For Petitioner : Mr.K.Balasubramanian

For Respondent : No appearance

O R D E R

R.Aishwarya, the petitioner herein, wife of one S.Kamakshinathan, the respondent herein, has come to this Court seeking transfer of H.M.O.P. No.187 of 2018 pending on the file of the Sub Judge, Kovilpatti to the file of the Family Court, Coimbatore.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 22.05.2016 at N.K.Mahal, Kovilpatti, as per Hindu rites and customs. According to the petitioner, although the petitioner was earlier working in an IT Company at Bangalore, one of the pre-condition for marriage is that she should resign the job, soon after the marriage. Accordingly, the petitioner had resigned her job on 02.03.2015 and went along with the respondent to USA, where the respondent is working. They lived there happily for three months and during October 2015 one and the other issue started arising. Finally, during December 2017, both the petitioner and the respondent came to India and they stayed for 4 days in Chennai. Subsequently, on 24.01.2018, the respondent while leaving to USA, demanded the petitioner's father to give half of the amount spent by him

towards expenses. However, the petitioner tried to contact him, but all her efforts went in vain, for the reason best known to him. Thereafter, the respondent has filed the H.M.O.P. No.187 of 2018 before the Sub Court, Kovilpatti seeking divorce by making false allegations against the petitioner and now the respondent is not going to contest the case, as he was staying in USA. Thereafter, finding no response from the respondent, the petitioner has filed the maintenance petition in M.C. No.185 of 2018 before the Family Court, Coimbatore.

3.Learned counsel appearing for the petitioner would further submit that he had taken private notice to the respondent and the same has been returned with an endorsement 'left India. Learned counsel appearing for the petitioner would further submit that as there was no other persons except the petitioner's parents to support the petitioner and to accommodate her for travelling from Coimbatore to Kovilpatti, for every hearing, she finds it very difficult to attend the Court at Kovilpatti, which is about 294 k.ms. Therefore, if the H.M.O.P. No.187 of 2018 is transferred to the Family Court, Coimbatore, no prejudice will be caused to the respondent.

4.A perusal of the records maintained by the registry shows that the notice sent to the respondent on 27.11.2018 was returned with an endorsement "left India". Affidavit of service was also filed to that effect. However, the notice sent through the learned counsel who has appeared on behalf of the respondent before the Sub Judge, Kovilpatti, has been served.

5.Taking note of the fact that the petition in M.C. No.185 of 2018 filed by the petitioner for maintenance was pending before the Family Court, Coimbatore and although service is completed, the respondent has not chosen to appear before this Court, which shows that the respondent has no objection in allowing the petition, this Court is inclined to transfer the H.M.O.P. No.187 of 2018 pending before the Sub Court, Kovilpatti to the file of the Family Court, Coimbatore.

6.Accordingly, the Tr. C.M.P. is allowed and the H.M.O.P. No.187 of 2018 pending on the file of the Sub Court, Kovilpatti, is withdrawn and transferred to the file of the Family Court, Coimbatore.

7.The Family Court, Coimbatore, is directed to take up both the cases together and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.20122 of 2018 is closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vga

To

- 1.The Sub Judge,  
Kovilpatti.
- 2.The Presiding Judge,  
Family Court,  
Coimbatore.

+1cc to Mr.K.Balasubramanian, Advocate SR.47354

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ssd[o]  
srg 27/07/2019

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