

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.834 of 2018
and C.M.P.No.20681 of 2018

Rani @ Dillirani

..Petitioner

versus

P.Dineshkumar @ Rukmangathan

..Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.141 of 2018 pending on the file of the Sub Court, Ponneri and transfer the same to the file of the III Additional Family Court, Chennai, to be tried along with the Petition in H.M.O.P.No.3252 of 2018 pending on its file.

For Petitioner : Mr.M.Selvam

For Respondent : No Appearance

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. H.M.O.P.No.141 of 2018 pending on the file of the Sub Court, Ponneri and transfer the same to the file of the III Additional Family Court, Chennai, to be tried along with the Petition in H.M.O.P.No.3252 of 2018 pending on its file.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnized on 08.06.2016 at Sri Venkateswara Mahal, Medavakkam, Chennai, as per Hindu rites and customs. Due to the wedlock, the petitioner gave birth to one female child, namely, Avanthika. After gave birth to female child, difference of opinion arose between the petitioner and respondent, resultantly, the petitioner left the matrimonial home and residing along with her parents at Chennai.

3. After leaving the matrimonial home by the petitioner, the respondent has filed a petition before the Sub Court, Ponneri, under Section 13(1)(ia), 13(1)(ib) of the Hindu Marriage Act, 1955, for annulling the marriage. The said petition is now pending before the Sub Court, Ponneri, as H.M.O.P.No.141 of 2018.

4. After knowing the particulars of the above case, the petitioner has filed a petition against the respondent before the III Additional Family Court, Chennai, under Section 9 of the Hindu Marriage Act, 1955, for the relief of restitution of conjugal rights. The said petition is now pending before the III Additional Family Court, Chennai as H.M.O.P.No.3252 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, since the two cases are related to matrimonial life of the petitioner and respondent, if the said petitions are tried separately, there may be a chance for coming out the conflicting decisions.

6. In respect to the respondent, the Court notice sent to the respondent was returned with an endorsement as "not claimed. Since the respondent is refused to receive the notice, it amounts to sufficient service. Hence, this Court directed the Registry to print the name of the respondent in the cause list. Even after printing his name in the cause list, he has not appeared before this Court till date either in person or through counsel.

7. It is true, the petitions, i.e. H.M.O.P.Nos.141 of 2018 and 3252 of 2018 are filed by the petitioner and respondent respectively only in respect to their matrimonial life. Since the prayer sought for by the petitioner as well as the respondent is related to the matrimonial life, if these cases are tried separately, there may be a chance for coming out the conflicting decisions. So, allowing the petition is the appropriate relief both to the petitioner as well as to the respondent.

8. In the result, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.141 of 2018 is ordered to be withdrawn from the file of the Sub Court, Ponneri and transferred to the file of the III Additional Family Court, Chennai. It is left open to the learned III Additional Judge, Family Court, Chennai, to decide for joint trial or for simultaneous trial. The learned Subordinate Judge, Ponneri, is directed to transmit all the records pertaining to H.M.O.P.No.141 of 2018 to the file of the III Additional Family Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned III Additional Judge, Family Court, Chennai, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

sri

To

1.The Subordinate Judge, Ponneri.

2.The III Additional Judge, Family Court, Chennai.

+1 CC to Mr.M.Selvam, Advocate sr 2791

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SP(07/02/2019)

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