

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 23.01.2019
JUDGMENT PRONOUNCED ON : 28.01.2019

CORAM

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

TR. C.M.P. NO. 849 OF 2018 AND
CMP NO.21070 OF 2018

D. Sandhini

Petitioner

Vs.

P. Shanmugasundaram

Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw HMOP No.629 of 2018 from the file of Subordinate Court, Tambaram and to transfer the same to the Family Court, Pondicherry.

For Petitioner : Mr. Nair P.Sridevi Pradeep
for K.Balaji

For Respondent : Mr. S. Bruno Cruz

O R D E R

The petitioner is the respondent in HMOP No.629 of 2018 pending on the file of Subordinate Court, Tambaram. She has filed this application under Section 24 of Code of Civil Procedure for the relief to withdraw the above said case from the file of Subordinate Court, Tambaram and to transfer the same to the file of Family Court at Pondicherry.

2. The petitioner is the wife and the respondent is her husband. The marriage between the petitioner and the respondent were solemnized on 20.01.2016 at Theerka Sumangali Marriage Hall, Ariyagkuppam, Pondicherry as per Hindu Rites and Customs. After the marriage, both the petitioner and the respondent were living with the parents of the respondent as joint family at Puzhuthiwakkam. After some time from the date of marriage, due to the ill-health of the petitioner, ie she was suffered from Adenoma disease, difference of opinion arose between the petitioner and the respondent. Thereafter, the petitioner left her matrimonial home for the sake of taking Radiotherapy treatment and she was living with her parents at Pondicherry.

3. After leaving the matrimonial home by the petitioner, the respondent filed an application against the petitioner for the relief of divorce. The said application has been pending with the Subordinate Court, Tambaram in HMOP No.629 of 2018. After receiving the notice pertaining to the above said case, the petitioner has approached this Court by way of filing this petition for transfer of the case as stated in the 1st paragraph of this Order.

4. According to the petitioner, she has suffered from Adenoma disease, for which she has undergone surgery twice and as of now, she is undergoing Radiotherapy treatment. Further, she is depending upon her parents for her medical expenses and other expenses. In the said circumstances, it is very difficult for the petitioner to attend the Court proceedings at Tambaram and hence, she prayed to allow this application.

5. The learned Counsel, who is appearing for the respondent would contend that it is not difficult for the petitioner to attend the Court proceedings at Tambaram.

6. Considering either side submissions, it is apparent that the respondent had not disputed the medical sufferings now facing by the petitioner. After taking treatment of Radiotherapy, it is very difficult task for the petitioner to travel 150 kms for attending the Court proceedings at Tambaram. Even though, the appearance is not necessary for each and every hearing at Tambaram, considering the fact that the petitioner is suffering from some serious disease, this Court constraint to consider this application utmost infavour of the petitioner.

7. If the prayer sought for by the petitioner is allowed in her favour, the respondent will be in a position to attend the Court proceedings at Pondicherry for each and every hearing, since, the appearance of a party is almost mandatory before the Family Court. So, in view of the fact that the respondent was employed in Chennai, if the petition mentioned HMOP is transferred to Family Court, Pondicherry, it will cause much difficulty to the respondent. Hence, considering the fact and circumstances, I am of the considered opinion that transferring the Court proceedings from the file of Subordinate Court, Tambaram to Principal Subordinate Court, Cuddalore is the proper relief for both the petitioner and the respondent, since Cuddalore is situated within 20 kms from Pondicherry.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered and HMOP No.629 of 2018 is ordered to be withdrawn from the file of Subordinate Court, Tambaram and to transfer the same to the file of Principal Subordinate Court, Cuddalore. The learned Subordinate Judge, Tambaram is directed

to transmit the case records pertaining to HMOP No.629 of 2018 to the Principal Subordinate Court, Cuddalore within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the Principal Subordinate Judge, Cuddalore is directed to dispose the said case as expeditiously as possible. Thus, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Subsequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Subordinate Judge, Tambaram.
 2. The Principal Subordinate Judge, Cuddalore.
- +1 cc to Mr. S. Bruno Cruz, Advocate, S.R.No.6284
+1 cc to Mr.K.Balaji, Advocate, S.R.No.5763

Tr. C.M.P. No. 849 of 2018
and CMP No.21070 of 2018

SV(CO)
SSM(19/02/2019)



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