



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.871 of 2018
and C.M.P. No.21528 of 2018

S.Anuradha

... Petitioner

-vs-

V.Sudarsan Muniraj

... Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw the H.M.O.P. No.24 of 2014 pending on the file of Subordinate Judge's Court at Tiruchengode and transfer the same to the file of Subordinate Judge's Court at Athur to be tried along with H.M.O.P. No.47 of 2016.

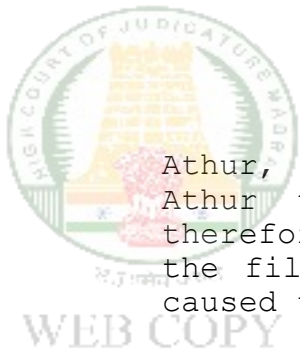
For Petitioner : Mr.Thirumalaisamy T.L.

For Respondent : No appearance

O R D E R

The Transfer C.M.P. has been filed to transfer the H.M.O.P. No.24 of 2014 pending on the file of the Subordinate Court, Tiruchengode to the file of the Subordinate Court, Athur to be tried along with H.M.O.P. No.47 of 2016 pending on the file of the Subordinate Court, Athur.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnised on 08.11.2006 at Athur, as per Hindu rites and customs. Learned counsel appearing for the petitioner would further submit that due to difference of opinion occurred between the parties, the respondent has filed a divorce petition in H.M.O.P. No.24 of 2014 on the file of the Subordinate Court, Tiruchengode by making false and frivolous allegations against the petitioner. In order to lead the matrimonial life peacefully, the petitioner had filed the H.M.O.P. No.47 of 2016 before the Subordinate Court, Athur, seeking restitution of conjugal rights. According to the learned counsel appearing for the petitioner, as the petitioner has been facing difficulty to meet her personal and medical expenses, she filed a case for maintenance in M.C. No.12 of 2014 before the Judicial Magistrate, Athur. Since the petitioner has been staying at



Athur, it is very difficult to undertake long journey alone from Athur to Tiruchengode to attend the Court proceedings and therefore, if the said H.M.O.P. No.24 of 2014 is transferred to the file of the Subordinate Court, Athur, no prejudice will be caused to the respondent.

3.Learned counsel appearing for the petitioner would further submit that notice sent by the registry to the address given by the respondent in the H.M.O.P. No.24 of 2014, has been returned with an endorsement 'no such person in this address'. Affidavit of service has been filed by the learned counsel appearing for the petitioner stating that private notice sent to the respondent was returned as 'No such address' and private notice sent to the Lower Court Counsel was served, but no representation on behalf of the respondent

4.A perusal of the records maintained by the registry shows that the service was effected through the learned counsel for the petitioner, who has taken private notice to the respondent to the address given by the respondent in the H.M.O.P. No.24 of 2014. Therefore, service is completed.

5.Taking note of the fact that the petition in H.M.O.P. No.47 of 2016 seeking for restitution of conjugal rights, filed by the petitioner was pending before the Subordinate Court, Athur 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.24 of 2014 pending before the Subordinate Court, Tiruchengode to the file of the Subordinate Court, Athur.

6.Accordingly, the Tr. C.M.P. is allowed and the H.M.O.P. No.24 of 2014 pending on the file of the Subordinate Court, Tiruchengode is withdrawn and transferred to the file of the Subordinate Court, Athur to be tried along with H.M.O.P. No.47 of 2016.

7.The learned Sub Court, Athur is directed to take up both the cases and dispose of the same expeditiously in the manner known to law. No costs. Consequently, C.M.P. No.21528 of 2018 is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar



vga

To

WEB COPY

1.The Subordinate Court,
Tiruchengode.

2.The Subordinate Court,
Athur.

+lcc to Mr.Thirumalaisamy T.L., Advocate sr.58241

Tr. C.M.P. No.871 of 2018
and C.M.P. No.21528 of 2018

jp(co)
nr 28/08/2019