

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

TR.CMP.NO.953 OF 2018
AND CMP NO.23504 OF 2018

B.Gomathi ... Petitioner/Respondent

Vs.

R.Jayakumar @ Baskar ... Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Civil Procedure Code to withdraw the petition in H.M.O.P.No.1154 of 2018 on the file of Additional Family Court, Coimbatore and transfer the same to the Principal Family Court at Chennai.

For Petitioner : No Appearance
For Respondent : Mr.S.B.Viswanathan

O R D E R

The petitioner/wife filed this Transfer Civil Miscellaneous Petition seeking to withdraw H.M.O.P.No.1154 of 2018 pending on the file of the Additional Family Court, Coimbatore and transfer the same to Principal Family Court, Chennai.

2. The petitioner is the wife. The respondent / husband filed a petition for divorce on the file of Additional Family Court, Coimbatore. According to the petitioner, she is handicapped. At the time of marriage, the respondent / husband has declared that he is very proud to marry a handicapped girl and also set up the matrimonial home at Chennai. Thereafter, the respondent / husband filed a petition under Section 12 of the Hindu Marriage Act seeking to declare the marriage as null and void. Even in the petition filed by the husband, the address of the petitioner / wife was shown as Chennai. The petitioner / wife also filed a bonafide certificate from her employer showing her residence as Chennai. Therefore, she seeks transfer of the case from Coimbatore to Chennai on the grounds of convenience.

3. The learned counsel appearing for the respondent would contend that the respondent married the petitioner without taking any dowry from her. But he came to know of her physical disability that she has a broken hip bone as well as not interest in having sexual relationship, after marriage. The

above facts were concealed by the petitioner and her parents. Therefore, the respondent / husband filed a petition for divorce before the Additional Family Court, Coimbatore.

4. I have considered the rival contentions.

5. It is not in dispute that the petitioner has some physical ailment and she is not in a position to travel long distance. Considering the physical and mental hardship caused to the petitioner/wife, this Court is inclined to transfer H.M.O.P.No.1154 of 2018 pending on the file of Additional Family Court, Coimbatore to Family Court, Chennai.

6. Accordingly, H.M.O.P.No.1154 of 2018 filed by the husband, pending on the file of Additional Family Court, Coimbatore is withdrawn and transferred to Principal Judge, Family Court, Chennai. The learned Principal Judge, Family Court, Chennai is directed to renumber the petition and allot the same to the appropriate Court, with a direction to dispose of the petition as expeditiously as possible.

7. The Transfer Civil Miscellaneous Petition is disposed of accordingly. No costs. Consequently, connected civil miscellaneous petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

TK

To

1.The Additional Judge
Family Court
Coimbatore.

2.The Principal Judge
Family Court
Chennai.

+1 CC to Mr.S.B.Viswanathan, Advocate sr 15950.

TR.CMP.NO.953 OF 2018

SP(20/03/2019)