

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

TR.CMP.NO.910 OF 2018
AND CMP NO.22383 OF 2018

R.Kavitha

... Petitioner

Vs.

R.Ramamurthi

... Respondent

PRAYER: Petition filed under Section 24 of the Civil Procedure Code to withdraw HMOP No.309 of 2015 pending on the file of Family Court, Madurai and order transfer the same to Sub Court at Mannargudi and to be tried along with HMOP No.129 of 2016 pending on its file.

For Petitioner : Mr.J.Nandagopal
For Respondent : Mr.S.Nambi Arooran

O R D E R

The petitioner/wife filed this petition seeking to withdraw and transfer H.M.O.P.No.309 of 2015 pending on the file of the Family Court, Madurai, to the Sub Court, Mannargudi, to be tried along with H.M.O.P.No.129 of 2016.

2. The petitioner is the wife. She filed H.M.O.P.No.129 of 2016 before the Sub Court, Mannargudi, for restitution of conjugal rights. Whereas, the respondent / husband filed a petition for divorce in H.M.O.P.No.309 of 2015 before the Family Court, Madurai.

3. The learned counsel for the respondent would vehemently contend that the petitioner is a resident of Pune and she is not residing at Mannargudi. She has not taken effective steps to prosecute the case at Sub Court, Mannargudi, whereas, the divorce petition filed by the husband is at the stage of trial. Cross examination of P.W.1 is over. At this stage, the intention of the petitioner in seeking transfer is only to drag on the proceedings and therefore, the Transfer Civil Miscellaneous Petition is liable to be dismissed.

4. On perusal of the materials, it is seen that the respondent / husband is residing at Singapore and he is coming down from Singapore for contesting the case. In that event, he has to travel either way to Madurai or any other Court from Singapore.

5. Whereas, the learned counsel for the petitioner would contend that the petitioner is residing at Mannargudi and it will take four hours for travelling from Mannargudi to Madurai and it will cause severe physical and mental hardship to the petitioner and it is not convenient for her safety also to travel to Madurai.

6. Considering the convenience of the parties, this Court is inclined to withdraw and transfer both the petition filed by the petitioner as well as respondent, to the Family Court at Trichy. Accordingly, H.M.O.P.No.309 of 2015 filed by the husband, pending on the file of Family Court, Madurai, as well as H.M.O.P.No.129 of 2016 filed by the wife, pending on the file of Sub Court, Mannargudi are withdrawn from the respective Courts and transferred to Family Court, Trichy. A direction is issued to the Family Court, Trichy, to renumber both the petitions, issue notice to both the parties and continue the proceedings from where it stands. A further direction is issued to dispose of both the petitions, as expeditiously as possible.

7. The respondent / husband undertakes to bear the travelling expenses of the petitioner / wife from Mannargudi to Trichy to contest the case. The undertaking given by the respondent / husband is recorded.

8. 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 Judge , Family Court
Madurai.

2.The Judge ,Sub Court
Mannargudi.

3.The Judge, Family Court
Trichy.

+1 CC to Mr.J.Nandagopal, Advocate sr 14993.
+1 CC to Mr.S.Nambi Arooran, Advocate sr 14748

TR.CMP.NO.910 OF 2018

SP(12/03/2019)



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