

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 23.01.2019
JUDGMENT PRONOUNCED ON : 29.01.2019

Coram

THE HON'BLE MR. JUSTICE R. PONGIAPPAN

Tr. C.M.P. No. 950 of 2018 and
CMP No.23419 of 2018

D. Suryaprabha

Petitioner

Vs.

N. Balaji

Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Code of Civil Procedure to withdraw HMOP No.249 of 2018 from the file of Principal Subordinate Court, Cuddalore and to transfer the same to the Family Court, Chennai.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.R.Sreedhar

O R D E R

The petitioner in this Transfer Civil Miscellaneous Petition is the respondent in HMOP No.249 of 2018 pending on the file of Subordinate Court, Cuddalore. 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 Subordinate Court, Cuddalore and to transfer the same to any one of the Family Court situated at Chennai.

2. The petitioner is the wife and the respondent is her husband. The marriage between the petitioner and the respondent was solemnized on 06.02.2014 as per Hindu Rites and Customs. After the marriage, both the petitioner and the respondent started to live at Kelambakkam in a residential flat. Before the marriage, the petitioner was working at Larsen & Toubro, Porur and thereafter she was working at Polaris, Anna Salai, Chennai. After the lapse of one year from the date of marriage, the petitioner got an opportunity to work in Global Analytics Ltd and she has also joined in the said Company. The respondent was working at Tata Consultancy Services at Siruseri. Due to the wedlock, the petitioner gave birth to one girl child on 19.04.2016, subsequent to that, the respondent required the

petitioner to quit the job, she was constrained by the respondent to quit her job. Thereafter, due to the difference of opinion arose between the petitioner and the respondent, the petitioner left her matrimonial home and joined with her parents at Tirumazhisai Street, East Tambaram, Chennai.

3. After leaving the matrimonial home by the petitioner, the respondent filed an application against the petitioner for the relief of divorce, by dissolving the marriage happened between them. As of now, the said application has been pending with the Principal Subordinate Court, Cuddalore in HMOP No.249 of 2018. In the said circumstances, the petitioner approached this court by way of filing this petition for transfer of the case as stated in the 1st paragraph of this Order.

4. By filing counter, the respondent herein denied the allegations levelled by the petitioner as against him. According to him, the petitioner is having more number of friends especially gents and they used to chat with the petitioner in a regular manner, especially during night hours. During the month of May 2017, she went to United States along with the baby and stayed for 6 months without informing the respondent. She is interested in wayward life with her boy friends. Apart from that, the petitioner's father is an influenced person. Therefore, if the petition filed by the petitioner is allowed, it will be very difficult for the respondent in attending the Court proceedings at Chennai.

5. On considering the submissions made by either side, the allegations levelled against each other, in respect to their matrimonial life, have to be decided only at the time of trial before the Court, in which the trial was proceeded. For disposing this application, it is necessary to see whether the sufficient cause was projected by the petitioner or not. The only grievance of the petitioner is, at present she is residing in Chennai alongwith her parents and thereby she is facing much difficulty in attending the Court proceedings at Cuddalore, with her child. On the other hand, the respondent has not disputed the fact that the petitioner is residing in Chennai. However, it is an admitted fact that the child was born to the petitioner and the respondent.

6. In the said circumstances, it is relevant to see the Judgment of our Honourable Apex Court, reported in Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta reported in 2008(9) SCC 353 and in Sumita Singh Vs. Kumar Sanjay and another reported in AIR 2002 SC 396. In the said Judgment, it was held that the convenience of the wife must be taken into account for deciding these type of applications.

7. In this case also, in view of the fact that since the petitioner is residing in Chennai, if the petition mentioned case is transferred from Cuddalore to Chennai, it is very convenient for the petitioner in attending the court proceedings at Chennai, whereas, it is difficult for the respondent to attend the Court proceedings at Chennai for each and every hearing. So this Court, upon considering the situation of the respondent, comes to the conclusion that the Subordinate Court, Tambaram is an appropriate place for deciding the dispute between the petitioner and the respondent.

8. Accordingly, the Transfer Civil Miscellaneous Petition is ordered and HMOP No.249 of 2018 is ordered to be withdrawn from the file of Principal Subordinate Court, Cuddalore and to transfer the same to the file of Subordinate Court, Tambaram. The learned Principal Subordinate Judge, Cuddalore is directed to transmit the case records pertaining to HMOP No.249 of 2018 to the Subordinate Court, Tambaram within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the Subordinate Judge, Tambaram is directed to dispose of the said case as expeditiously as possible. Thus, the Transfer Civil Miscellaneous Petition is disposed of. No costs. Subsequently, connected civil miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vrn

To

1. The Principal Subordinate Court, Cuddalore
2. The Subordinate Court, Tambaram

+1 cc to Mr.K.Selvaraj, Advocate, S.R.No.7081

+1 cc to Mr.R.Sreedhar, Advocate, S.R.No.7349

Order in Tr. C.M.P. No. 950 of 2018
and CMP No.23419 of 2018

SSM(15/02/2019)