IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

C O R A M

THE HON'BLE MRS JUSTICE V.BHAVANI SUBBAROYAN, J.

TR.C.M.P.No. 962 of 2018
and C.M.P.No.23689 of 2018

Easter Mary ... Petitioner /Respondent

Vs

JeramanusJayakar ... Respondent/Petitioner

Prayer : Transfer Civil Miscellaneous Petition filed under Section 24of Civil Procedure code, to withdraw O.P.No.2956 of 2018 pending before the V Additional Family Court, Madras and transfer it to the Principal District and Sessions Court, Nagapattinam, to be tried along with D.O.P.No.14 of 2018 pending on its file

For Petitioner : Mr.R.Meenal

For Respondent : served No appearance

O R D E R

This petition has been filed seeking for withdrawal O.P.No.2956 of 2018, pending before the V Additional Family Court, Madras and transfer the same to the Principal District and Sessions Court, Nagapattinam, to be tried along with D.O.P.No.14 of 2018.

2.Learned counsel for the petitioner submits that the petitioner and respondent got married on 10.05.2017. After marriage the respondent has less interest with the petitioner and he was very rude, always quarreled with her. Therefore, the marriage was not consummated. The respondent also informed to the petitioner that he has physically unfit, due to the compulsion only, he has married the petitioner. The petitioner has left the matrimonial house on 10.07.2017.

3.The respondent has filed an O.P.No.2956 of 2018 before the V Additional Family Court, Madras, for dissolving of their marriage under Section 18 and 19 of the Indian Divorce Act alleging that his wife was incapable of consummating of their marriage and mentally ill. The petitioner has also filed a

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D.O.P.No.14 of 2018 before the Principal District and Sessions Court, Nagapattinam seeking dissolution of the marriage, both the parties have filed the petitions for dissolving the marriage in their native place.

4.The petitioner would submit that since proceedings continued before the V Additional Family Court at Madras, she has to travel from Nagapattinam to Madras accompanying with her father and has to stay in hotel for that sake. Connecting the case in O.P.No.2956 of 2018 on the file of the V Additional Family Court, Madras, the respondent did not appear for any of the hearings and the petitioner's case is also pending for adjudication for the aforesaid reason. Hence, she prays for withdrawal the pending case before the V Additional Family Court, Madras, to be tried along with D.O.P.No.14 of 2018, which is pending before the Principal District and Sessions Court, Nagapattinam.

5.Notice was ordered by this Court on 27.12.2018 on the respondent. The mother of the respondent has received the said notice, which has been sent through the Court. The name of the respondent has also been printed in the cause list but none appears for the respondent or on his behalf.

6.In the aforesaid circumstances, this Court is of the view that the petitioner is entitled to get the relief as sought for in the Transfer Civil Miscellaneous Petition.

7.Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. V Additional Judge, Family Court, Madras.
2. The Principal District and Sessions Judge, Nagapattinam.

+1cc to M/s.R.Meenal, Advocate Sr.79956

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