



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

Tr.C.M.P.(MD).No.32 of 2019 and
C.M.P.(MD).No.1052 of 2019

Smily @ Harshini

... Petitioner/Respondent

Vs.

Sri Sankar

... Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to pass an order to withdraw the H.M.O.P.No.1591 of 2018 from the Principal Family Court, Coimbatore so as to try and dispose of the same along with the case in H.M.O.P.No.30 of 2018 by the Court of learned Subordinate Judge, Valliyoor, Tirunelveli District pending on the file of the said Court.

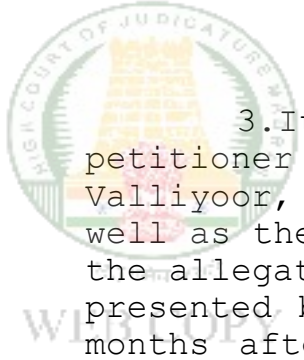
For Petitioner : Mr.R.Anand

For Respondent : No Appearance

ORDER

Despite notice being serviced on the respondent, the respondent has not appeared before the Court neither in person nor engaged any counsel on his behalf. Though his name is printed in the cause list, there is no representation for the respondent.

2.This transfer civil miscellaneous petition is filed by wife to withdraw H.M.O.P.No.1591 of 2018 pending on the file of the Family Court, Coimbatore, so as to try and dispose along with the case in H.M.O.P.No.30 of 2018 on the file of the Subordinate Judge, Valliyoor, Tirunelveli District. The petitioner is wife. The marriage between the petitioner and respondent was solemnized on 15.03.2015 at Valliyoor, as per Hindu rites and customs. Stating that the petitioner was driven out from the matrimonial home by the respondent on 20.07.2014 and that the respondent deserted the petitioner and her child, the petitioner filed a petition in H.M.O.P.No.30 of 2018 before the Sub Court, Valliyoor, for divorce on the ground of mental cruelty by the husband. This petition has been filed in March 2018. After receipt of notice in the petition for divorce filed by the petitioner, it is learnt that the respondent has filed a petition in H.M.O.P.No.1591 of 2018 before the Family Court, Coimbatore, for Restitution of Conjugal Rights under Section 9 of Hindu Marriage Act. Stating that there is no bonafide in the subsequent petition filed by the husband before the Family Court, Coimbatore, the wife has approached this Court for transfer of proceedings from the Family Court, Coimbatore to the Subordinate Court, Valliyoor.



3.It is not in dispute that the marriage between the petitioner and the respondent was solemnized on 15.03.2013 at Valliyoor, and the two petitions have been filed by the husband as well as the wife respectively. Having regard the admitted facts and the allegations made by husband, it is evident that the petition was presented by the husband before the Family Court, Coimbatore, nine months after the filing of petition by the wife. The husband has filed petition for restitution of conjugal rights without making any attempt to reunite with his wife till this petition was filed before the Family Court, Coimbatore. It is represented that the wife has got employment and she is also residing in Tirunelveli District. Having regard to the facts and circumstances of the case and the convenience of the wife, this Court is inclined to allow this petition. Hence, the proceedings in Family Court, Coimbatore, in H.M.O.P.No.1591 of 2018 is withdrawn and transferred to the file of learned Subordinate Judge, Valliyoor, so as to try the case along with H.M.O.P.No.30 of 2018 on his file.

4.Accordingly, this transfer miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Family Court Judge,
Family Court,
Coimbatore.

2.The Sub Judge,
Valliyoor.

Tr.C.M.P. (MD) .No.32 of 2019
18.06.2019

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