



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S. S. SUNDAR**

TR.C.M.P (MD) No.55 of 2019

and

C.M.P. (MD) No.1431 of 2019

K.Kavitha

: Petitioner

Vs.

R.Thamaraiselvan

: Respondent

Prayer: Petition is filed under Section 24 of Code of Civil Procedure, to withdraw the case in I.A.No.92 of 2018 in H.M.O.P.No.155 of 2016 on the file of Family Court, Tiruchirappalli and to transfer the same to the file of Family Court, Krishnagiri or any other Court near Bangalore in Tamil Nadu State for disposal of the same on merits in accordance with law.

For Petitioner : Mr.A.Arumugam

For Respondent : Mr.T.Senthil Kumar

ORDER

This petition has been preferred by the petitioner/wife to withdraw the case in I.A.No.92 of 2018 in H.M.O.P.No.155 of 2016 on the file of Family Court, Tiruchirappalli and to transfer the same before the Family Court, Krishnagiri.

2.The petitioner stated that the respondent is her husband and the marriage between the petitioner and the respondent was solemnized on 21.01.2015. She further stated that after few months of marriage, due to some misunderstanding arose between the respondent/husband, the husband/respondent has filed a petition in H.M.O.P.No.155 of 2016 under Section 13(i)(a) Hindu Marriage Act, seeking divorce on the ground of mental cruelty. It is stated that the husband has sent a legal notice to the petitioner's old residential address. Hence, the petitioner did not know about the pendency of the proceedings. Thereafter, the husband has obtained an *ex parte* decree in H.M.O.P.No.155 of 2016.

3.The learned counsel for the petitioner states that the respondent sent notice to the the petitioner's old residential address. The petitioner after knowing the *ex parte* order, filed an



interlocutory application in I.A.No.92 of 2018 to set aside the *ex parte* order passed in H.M.O.P.No.155 of 2016. It is stated by the petitioner that the respondent/husband and their men assaulted the petitioner's brother, when they appear before the Family Court, at Trichy on 18.06.2018. In this regard, a complaint was also given before the Sessions Court Police Station, Trichy City on 18.06.2018. The petitioner has produced the photographs showing the injured brother of the petitioner. It is further stated that it will be difficult for the petitioner to travel from Bangalore to Trichy for every hearing and there is threat to the life of the petitioner. Hence, seeking transfer of proceedings, the present petition has been filed.

4. The respondent has not filed any counter affidavit denying the averments made in the petition. It is to be noted that the marriage took place in Trichy. In this case, the wife is residing at Bangalore. Though the petition filed by the husband is maintainable before the Family Court, Trichy, in a petition filed by the husband for divorce, the convenience of the wife can be given some preference. In that view of the matter, this Court is inclined to allow this petition.

5. In the facts and circumstances of the case and to ensure the justice to the petitioner, this Court allows this petition and the proceedings in I.A.No.92 of 2016 in H.M.O.P.NO.155 of 2016 is withdrawn from the Family Court Trichy, and the same is transferred to the file of the Family Court Krishnagiri for disposal on merits.

6. The Family Court, Trichy is directed to send the records within a period of two weeks from the date of receipt of a copy of this order. The Family Court, Krishnagiri is directed to dispose the proceedings in I.A.No.92 of 2016 in H.M.O.P.NO.155 of 2016, within a period of four weeks from the date of receipt of records.

7. In view of the above, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

das



To

1. The Judge,
Family Court,
Tiruchirappalli.

WEB COPY

2. The Judge,
Family Court,
Krishnagiri

Copy to:

The Section Officer, V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 CC to M/s.Ajmal Associates, in SR.No.72364

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