



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

Tr.C.M.P. (MD).No.220 of 2019 and
C.M.P. (MD).No.5228 of 2019

Ezhil @ Latha

.. Petitioner/Respondent

Vs.

M.Balachandran

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the proceedings in H.M.O.P.No.208 of 2019 on the file of the learned Family Court, Trichy and to transfer the same to the file of learned Sub Court, Palani / Camp Court, Kodaikanal, Dindigul District.

For Petitioner : Mr.C.Prithviraj

For Respondent : No Appearance

ORDER

This petition for transfer is filed by the wife seeking withdrawal and transfer of proceedings in H.M.O.P.No.208 of 2019 from the file of Family Court, Trichy, to Sub Court, Palani, Dindigul District.

2.Though notice was sent to the respondent, the same was returned with an endorsement 'left'.

3.The marriage between the petitioner and the respondent was solemnized on 22.08.2004 in Thanjavur. It is not in dispute that the petitioner is at present residing in 'Adukkam' near Kodaikanal in Dindigul District. It is stated that the respondent filed a petition in H.M.O.P.No.75 of 2008 on the file of the Sub Court, Trichy, earlier, for divorce from the petitioner and the same was dismissed on merits, on 13.09.2010. The petitioner has filed a maintenance case in M.C.No.8 of 2011 on the file of the Judicial Magistrate, Vadipatti and obtained an order, by which, the respondent was directed to pay maintenance amount of Rs.2,000/- to the petitioner. Though the petition to set aside this order was allowed on condition that the respondent should deposit a sum of Rs.20,000/- on or before 22.02.2013, it is stated that the



respondent did not comply with the condition and therefore the order passed in the M.C.No.8 of 2011 is still in force.

4.It is stated that the respondent has filed the present proceeding in H.M.O.P.No.208 of 2019 on the file of Family Court, Trichy, again for the same relief of divorce. It is in the said circumstances narrated by the petitioner, the petitioner is entitled to seek transfer of the same to the place where she resides. From the notice, it is seen that the notice has been sent to the same address that is found in the petition filed by the respondent in H.M.O.P.No.208 of 2019. In such circumstances, this Court is of the view that the respondent is evading service. Having regard to the facts narrated, this Court is of the view that the petitioner is entitled to seek transfer not only on the ground of convenience, but also by taking into account the conduct of the respondent in filing the second petition, indicating that the husband has filed a vexatious petition to harass the petitioner.

5.Accordingly, this transfer miscellaneous petition is allowed and the proceedings in H.M.O.P.No.208 of 2019 on the file of Family Court, Trichy, is withdrawn and the same is transferred to the Sub Court, Palani/Camp Court, Kodaikanal, Dindigul District. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judge, Family Court, Trichy.

2.The Sub Judge, Palani/Camp Court, Kodaikanal,
Dindigul District.

+1 CC to M/s.A.SANGEETHA, Advocate SR-78661.

Tr.C.M.P. (MD) .No.220 of 2019
29.07.2019

CS(27.08.2019) 2P 4C