



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 23.10.2019

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

Tr.C.M.P.(MD)No.372 of 2019

and

C.M.P.(MD)No.8551 of 2019

J.Shanmugapriya

.. Petitioner/Respondent

Vs.

D.Prabhu

.. Respondent/Petitioner

Prayer : Petition is filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.178 of 2017 on the file of the II Additional Sub Court, Coimbatore and to transfer the same to the file of the Sub Court, Palani.

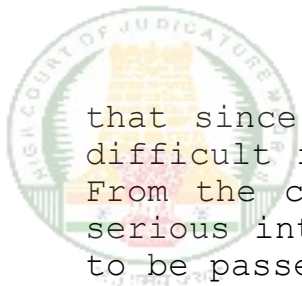
For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.S.J.Muthiah

ORDER

The above Transfer Civil Miscellaneous Petition has been filed seeking to withdraw H.M.O.P.No.178 of 2017 filed by the respondent, for divorce, on the file of the II Additional Subordinate Court, Coimbatore, to the file of the Sub Court, Palani.

2.The petitioner would submit that after the marriage with the respondent on 08.12.2016, she had left with him to Bangalore. However, the respondent did not show any affection towards her and would quarrel with her at the drop of the hat. All of the sudden, she has received the summons from the II Additional Sub Court, Coimbatore informing her that the respondent has moved a petition to declare the marriage between herself and the respondent as null and void under Section 12(1)(a)(b)(c) of Hindu Marriage Act. The petitioner has also filed a petition in I.A.No.95 of 2018 for return of jewels and cash. Though the respondent has initiated the proceedings, he did not appear before the Court and ultimately, an ex parte order was passed against the respondent on 17.07.2018 and to date, the order passed in I.A.No.95 of 2018 has not been complied with. In these circumstances, the petitioner would further submit



that since the respondent has refused to maintain her, it would be difficult for her to come over to Coimbatore to attend the hearing. From the conduct of the husband, it also appears that there is no serious intent to prosecute the matter, as he has allowed the order to be passed ex parte.

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3.Considering the fact that the petitioner is residing at Palani and the Court of Palani is vested with jurisdiction to hear the application under Hindu Marriage Act, the petition in H.M.O.P.No.178 of 2017 is ordered to be withdrawn and transferred from the file of the II Additional Subordinate Court, Coimbatore, to the file of Sub Court, Palani. The learned II Additional Subordinate Judge, Coimbatore, is directed to transmit the entire records in H.M.O.P.No.178 of 2017 to the Sub Court, Palani. The learned Subordinate Judge, Palani is directed to conduct trial in H.M.O.P.No.178 of 2017 and dispose of the same on merits and in accordance with law. The learned Subordinate Judge, Palani shall hear the HMOP only after the compliance of the order passed in I.A.No.95 of 2018, either by the respondent complying with the order or by taking out an application to set aside the exparte order.

4.This Transfer Civil Miscellaneous Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

Mrn

To

1.The II Additional Subordinate Judge, Coimbatore.

2.The Sub Judge, Palani.

+1 CC to M/s.D.VENKATESH, Advocate (SR-94127[F] dated 24/10/2019)

Tr.C.M.P. (MD)No.372 of 2019
23.10.2019

JMN(20.11.2019) 2P : 4C