



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.152 of 2020

N.Meenakshi

..Petitioner

Versus

Dr.A.Navin

..Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.134 of 2017 pending on the file of learned Family Court, Tiruvallur, and to transfer the same to the file of II Additional Family Court, Chennai.

For Petitioner : Mr.M.P.Saravanan

For Respondent : No Appearance

O R D E R

Heard the parties through Video Conferencing due to COVID-19 pandemic.

2. Mrs.N.Meenakshi/petitioner herein, wife of Dr.A.Navin/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.134 of 2017 from the file of learned Family Court, Tiruvallur, to the file of learned II Additional Family Court, Chennai. The above said HMOP was filed by the respondent/husband seeking for restitution of conjugal rights.

3. Learned counsel appearing for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 09.07.2009 at NDP Thirumana Mandapam, Thiruvallur, as per Hindu Rites and Customs. Out of the said wedlock, a female child was born to them on 25.08.2010, followed by a male child on 29.03.2012. The petitioner/wife is working as a Software Engineer at Taramani, Chennai, and the respondent/husband is Dentist at Tiruvallur. Since the respondent/husband has caused immense mental cruelty and also deserted the petitioner/wife, she has given a police complaint



and therefore, to escape from such police complaint, the respondent/husband has filed H.M.O.P.No.134 of 2017 on the file of learned Family Court, Tiruvallur, seeking for restitution of conjugal rights, and the same is pending. Thereafter, the petitioner/wife also filed H.M.O.P.No.3425 of 2019 on the file of learned II Additional Family Court, Chennai, seeking for divorce, and the same is pending. It is further submitted that as the petitioner/wife is having two school going children with her custody, it will be difficult for her to undertake a long journey from Chennai to Tiruvallur, which is more than 50 kms., to attend each and every hearing, that too, at this difficult time, due to COVID-19 pandemic. Therefore, the case filed by the husband may be transferred to the file of learned II Additional Family Court, Chennai, where the case filed by the wife in H.M.O.P.No.3425 of 2019 is pending, for joint trial.

4. Although Court notice is served on the respondent/husband, none appears on behalf of him to represent the case, that shows that he has no objection in transferring the case to the file of learned II Additional Family Court, Chennai. Secondly, the petitioner/wife is having two children with her custody and they are now attending the School at Chennai and therefore, it is not feasible for her to undertake a journey of more than 50 kms. from Chennai to Tiruvallur to attend each and every hearing, that too, at this difficult time, due to COVID-19 pandemic. Thirdly, the petitioner/wife has already filed H.M.O.P.No.3425 of 2019 seeking for divorce and the same is pending before the learned II Additional Family Court, Chennai. Therefore, considering the balance of convenience in favour of wife, H.M.O.P.No.134 of 2017 filed by the husband is withdrawn from the file of learned Family Court, Tiruvallur, consequently, transferred to the file of learned II Additional Family Court, Chennai, to be tried along with H.M.O.P.No.3425 of 2019 filed by the wife. On such transfer, learned II Additional Family Court, Chennai, shall dispose of both the cases together in the manner known to law as expeditiously as possible. With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.5154 of 2020 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm



To

1.The Judge,Family Court, Tiruvallur.

2. II Additional Judge, Family Court, Chennai.

+1cc to Mr.M.P.Surulirajan, Advocate, S.R.No.25785

Tr.C.M.P.No.152 of 2020

PA (CO)
KKV/14/08/2020