

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Transfer C.M.P.No.71 of 2020 and
C.M.P. No.2400 of 2020

B.Vijayalakshmi

...Petitioner

vs.

S.Ezhilvanan

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw G.W.O.P. No.201 of 2019 pending before the Principal District Judge, Vellore and transfer the same to I Additional Family Court at Chennai to be tried along with H.M.O.P. No.74 of 2020 pending before the I Additional Family Court at Chennai.

For Petitioner : Ms.Saitanya Kesan
for Mr.A.E.Ravi Chandran

For Respondent : M/s.S.N.Subramani

O R D E R

The petitioner herein, namely wife, has filed the present transfer civil miscellaneous petition under Section 24 of the Civil Procedure Code, for transferring G.W.O.P. No.201 of 2019 pending on the file of Principal District Judge, Vellore to the file of I Additional Family Court at Chennai, to be tried along with H.M.O.P. No.74 of 2020 pending before the I Additional Family Court at Chennai.

2. The marriage between the petitioner and the respondent herein took place on 12.02.2014 and out of the wedlock, a male child was born to them on 14.12.2014. According to the petitioner, the respondent was suffering from mental illness, which forced her to leave the matrimonial house apart from the fact that due to harassment faced by her, a complaint has been lodged before the All Women Police Station, Anna Nagar, Chennai in C.S.R No.250 of 2018. It is further stated that, husband tried to take away the child from her, which made her to lodge another complaint before the Inspector of Police, Kaveripakkam, Vellore District in C.S.R. No.125 of 2019. It is further stated that she has filed a petition for dissolution of marriage on the ground of cruelty in H.M.O.P. No.74 of 2020 on the file of I Additional Family Court at Chennai and in the

meantime, respondent herein/husband has filed a Guardianship OP in G.W.O.P. No.201/2019 before the Principal District Judge, Vellore for appointing him as a guardian.

3. Admittedly both the issues are not common and that G.W.O.P. No.201/2019 is pending before the Principal District Judge, Vellore, which is a competent court in terms of Section 7 of the Guardian and Wards Act, 1890. This court has also posed a question to the petitioner as to whether the petitioner would permit the husband to have visitation rights during the pendency of the matters, without prejudice to the rights of the petitioner, as the child shall not lose the love and affection of the father. Learned counsel for the petitioner, submitted that her client is not willing to give visitation rights to her husband.

4. On account of the difference of opinion between the petitioner and respondent, this court, is of the view that the child should not lose the love and affection of both the parents. Sometimes, the child/children may be the bridge to unite the parents and the petitioner fails to understand and because of the difference between the husband and wife, child/children may become a orphan/orphans in public.

5. The reasons stated in the affidavit for transfer, are not germane and in the matrimonial matters, the parties have to appear and also entitled to engage a lawyer to represent them. So also in the matter of Guardians and Wards OP, the parties can be represented by a lawyer and that, no prejudice is going to be caused, if both the matters are tried at the respective courts where the matters are pending now. Hence, the transfer civil miscellaneous petition deserves to be dismissed.

Accordingly, the transfer civil miscellaneous petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

(Asr)

To :

The Principal District Court, Vellore.

+1cc to Mr.A.E.Ravi Chandran, Advocate SR.No.15414

+1cc to Mr.S.N.Subramani, Advocate SR.No.14875

Tr. C.M.P. No.71 of 2020 and
C.M.P. No.2400 of 2020

SPD (CO)
GMY (23/03/2020)



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