

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.93 of 2020

T.Jayalakshmi .. Petitioner/Respondent

-vs-

Azhagu @ Azhageshkannan .. Respondent/Petitioner

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.322 of 2019 on the file of the Principal Sub Court, Pudukkottai and transfer the same to the Family Court, Cuddalore.

For Petitioner :: Mr.E.Prabakaran
For Respondent :: No appearance

ORDER

Heard learned counsel for the petitioner through video conferencing due to the Covid-19 pandemic.

2. The petitioner-Mrs.T.Jayalakshmi, Wife of Mr.Azhagu @ Azhageshkannan, the respondent herein has filed this transfer civil miscellaneous petition seeking withdrawal of the H.M.O.P.No.322 of 2019 from the file of the Principal Sub Court, Pudukkottai and transfer the same to the Family Court, Cuddalore.

3. Learned counsel appearing for the petitioner submitted that the marriage between the parties was solemnized on 27.6.2005 at Arulmighu Muthumariamman Koil, Thiruvappur, Pudukkottai, as per Hindu rites and customs in the presence of elders and relatives of both families. Out of the wedlock, a girl child, namely, Pavithra was born on 17.3.2006. Although they were living together in the matrimonial home, harassment started coming up. When the petitioner has taken several steps to live happily as a dutiful wife ignoring the mental cruelty and harassment meted out to her, at one point of time, a panchayat was also held. But the respondent's family did not accept the same without fulfillment of the dowry demand. Under these circumstances, the petitioner filed M.C.No.7 of 2014 before the learned Chief Judicial Magistrate, Cuddalore and the Court also directed the respondent to pay a maintenance of

Rs.3,000/- per month each to the petitioner and her daughter. But the respondent has not even come forward to pay the maintenance. Therefore, the petitioner filed another miscellaneous petition in C.M.P.No.558 of 2018 claiming arrears of maintenance and the same is also pending. After the order was passed in the maintenance case, the respondent has filed H.M.O.P.No.322 of 2019 on the file of the Principal Sub Court, Pudukkottai, which is only a dilatory tactics. If the respondent wants to live with the petitioner, he can always come and live with her. Leaving that option on one side, he cannot maintain the petition for restitution of conjugal rights. In any event, the petitioner and her daughter cannot undertake a long journey from Cuddalore to Pudukkottai, which is about 150 to 200 Kms., in distance. Therefore, the matter may be transferred.

4. Although notice has been served, none appeared for the respondent.

5. Considering the fact that the petitioner is having a daughter who is aged 14 years now, it will be difficult for her to undertake a long journey of 3 ½ hours on one side from Cuddalore to Pudukkottai. It may be also mentioned herein that only after the order was passed in M.C.No.7 of 2014 by the learned Chief Judicial Magistrate, Cuddalore directing the respondent to pay a sum of Rs.3,000/- per month each to the petitioner and her daughter, the respondent has filed the H.M.O.P.No.322 of 2019 seeking for restitution of conjugal rights. Hence, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.322 of 2019 is withdrawn from the file of the Principal Sub Court, Pudukkottai and transferred to the Family Court, Cuddalore for disposal on merits expeditiously. Consequently, C.M.P.No.3289 of 2020 is closed.

-s/d-

Assistant Registrar(CS-)

True Copy

Sub-Assistant Registrar

To

1. The Principal Subordinate Judge
Pudukkottai
2. The Family Court Judge
Cuddalore.
3. The Chief Judicial Magistrate
Cuddalore.

Nr (co)

krd 18/8

Tr.C.M.P.No.93 of 2020