

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.78 of 2020

P.Sharmila

.. Petitioner

Versus

P.Rajiv

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.367 of 2018 pending on the file of learned Sub-Court, Poonamallee, and to transfer the same to the file of learned Sub-Court, Neyveli, for joint trial along with H.M.O.P.No.39 of 2018.

For Petitioner : Mr.S.Lingesh

For Respondent : No Appearance (Served NA)

O R D E R

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

2. Mrs.P.Sharmila/petitioner herein, wife of Mr.P.Rajiv/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.367 of 2018 from the file of learned Sub-Court, Poonamallee, to the file of learned Sub-Court, Neyveli, to try along with H.M.O.P.No.39 of 2018 filed by the wife seeking for divorce. The above said HMOP No.367 of 2018 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 19.06.2013 at K.S.P.Mahal Marriage Hall, Padi, Chennai, as per Hindu Rites and Customs, in the presence of well-wishers of both family. Out of the said wedlock, they were blessed with a male child in the year 2015. Thereafter, she was ill-treated and harassed by the respondent/husband and his family members and therefore, due to such mental cruelty, she left the matrimonial home in the year 2015 and now, she is living with her parents at Neyveli. Whiles, she has filed H.M.O.P.No.39 of 2018 on the file of learned Sub-Court, Neyveli, seeking for divorce, and again, she has filed M.C.No.12 of 2018 seeking for maintenance. Now,

only to drag on the proceedings, the respondent/husband has filed H.M.O.P.No.367 of 2018 on the file of learned Sub-Court, Poonamallee, seeking for restitution of conjugal rights. It is further submitted that the petitioner/wife is having 5 years old school going male child with her custody and therefore, it will be difficult for her to undertake long journey from Poonamallee to Neyveli, which is more than 200 kms., to attend each and every hearing. Therefore, if the case filed by the husband is transferred, it will be convenient for both parties to conduct the case at one place.

4. Although Court notice is served on the respondent/husband, no one represented the case on behalf of him, that shows that he has no objection in transferring the case to the file of learned Sub-Court, Neyveli. Secondly, the petitioner/wife is having 5 years old school going male child with her custody and she is presently residing with her parents at Neyveli. Thirdly, the distance between Poonamallee and Neyveli is more than 200 kms., and therefore, it is not feasible for her to undertake such a long journey, that too, at this difficult time, due to COVID-19 pandemic, to attend each and every hearing. Fourthly, two cases, namely, H.M.O.P.No.39 of 2018 and M.C.No.12 of 2018, filed by the wife are pending at Neyveli and therefore, if the case filed by the husband is transferred, it will be convenient for both parties to conduct the case at one place. Thus, considering the balance of convenience in favour of wife, H.M.O.P.No.367 of 2018 filed by the husband is withdrawn from the file of learned Sub-Court, Poonamallee, consequently, transferred to the file of learned Sub-Court, Neyveli, to be tried along with H.M.O.P.No.39 of 2018 filed by the wife. On such transfer, learned Sub-Court, Neyveli, 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.2567 of 2020 is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Judge, Sub-Court, Poonamallee.

2.The Judge, Sub-Court, Neyveli.

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