

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.103 of 2020

S.Yamuna Rani

.. Petitioner

-vs-

K.Somasundaram

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.257 of 2019 pending on the file of the learned Principal Sub Judge, Kumbakonam and transfer the same to the file of learned Sub Judge, Tambaram..

For Petitioner :: Mr.G.Balamanikandan

For Respondent :: No appearance

ORDER

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

2. Mrs.S.Yamuna Rani has filed this transfer civil miscellaneous petition seeking an order for withdrawal of the H.M.O.P.No.257 of 2019 from the file of the learned Principal Sub Judge, Kumbakonam and transfer the same to the file of the learned Sub Judge, Tambaram.

3. Learned counsel appearing for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 6.2.2017 at Arulmighu Murugan Temple, Vallakkottai, Sriperumbudur Taluk, Kanchipuram District. However, after sometime, the respondent started behaving roughly with the petitioner and stopped talking to her. It is also stated that the respondent belongs to Vanniyar community, whereas the petitioner belongs to Scheduled Caste. Finally the petitioner also gave birth to a child named S.Krithick Sai on 25.11.2017. Even after the delivery of the child, the respondent never took any interest to see them. Therefore, the petitioner found it difficult to meet out the expenses towards food and nutrition to the son. The respondent is also working in

Connequit Solutions Private Limited, Guindy Industrial Estate, Chennai and earning a handsome salary. Therefore, the petitioner filed M.C.No.37 of 2019 on the file of the learned Judicial Magistrate, Alandur that has been transferred to the Mahila Court (Magisterial level), Alandur and renumbered as M.C.No.13 of 2019. In the meanwhile, the respondent has filed the H.M.O.P.No.257 of 2019 before the Principal Sub Court, Kumbakonam seeking restitution of conjugal rights, whereas he has been working and living in Chennai. When the petitioner is not working and is having a tender aged child, it will be difficult to travel from Chennai to Kumbakonam. Hence, if the H.M.O.P.No.257 of 2019 pending on the file of the Principal Sub Court, Kumbakonam is transferred to the Sub Court, Tambaram, no prejudice would be caused to any one. Learned counsel for the petitioner also stated that since the Court notice was returned as unclaimed by the respondent, he has sent the private notice to the respondent to the address given in the H.M.O.P.No.257 of 2019 and the same also was returned unclaimed. That shows that the respondent refused to receive the Court notice.

4. The proof affidavit filed by the petitioner clearly shows that the address of the respondent given in the H.M.O.P.No.257 of 2019 and the address given in the M.C.No.13 of 2019 are one and the same. Therefore, the service taken by the petitioner to the respondent properly stands complete and served. In spite of service of notice, if the respondent fails to come, that shows that he has no objection for allowing the transfer civil miscellaneous petition. Secondly, the petitioner is living with her 2 ½ years old male child. Therefore, it will be difficult for her to undertake a long journey from Palavanthangal, Chennai to Kumbakonam. Hence, the H.M.O.P.No.257 of 2019 is withdrawn from the file of the Principal Sub Court, Kumbakonam and transferred to the Sub Court, Tambaram for disposal on merits. Learned counsel for the petitioner also stated that the M.C.No.13 of 2019 pending on the file of the Mahila Court (Magisterial Level), Alandur, wherein the respondent has been set ex parte and posted for ex parte evidence, may also be transferred to the Sub Court, Tambaram, so that both the matters can be tried together. Taking into account the convenience of both the parties, the M.C.No.13 of 2019 is also withdrawn from the file of the Mahila Court (Magisterial Level), Alandur and transferred to the Sub Court, Tambaram to be tried along with H.M.O.P.No.257 of 2019. The transfer civil miscellaneous petition stands allowed. Consequently, C.M.P.No.3588 of 2020 stands closed.

Sd/-

Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

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To

1. The Principal Subordinate Judge
Kumbakonam
2. The Subordinate Judge
Tambaram
3. The Mahila Court Judge
(Magisterial Level)
Alandur

Tr.C.M.P.No.103 of 2020

MG (CO)
GMY (28/10/2020)



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