

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.89 of 2020

R.Santhanalakshmi

.. Petitioner

Versus

A.Suresh

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.81 of 2019 pending on the file of learned Sub-Court, Kallakurichi, and to transfer the same to the file of learned Sub-Court, Tambaram, to be tried and disposed of along with H.M.O.P.No.361 of 2019 pending on the file of learned Sub-Court, Tambaram.

For Petitioner : Mr.G.Narayanan

For Respondent : Mr.S.Saravanan

O R D E R

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

2. Mrs.R.Santhanalakshmi/petitioner herein, wife of Mr.A.Suresh/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.81 of 2019 from the file of learned Sub-Court, Kallakuruchi, to the file of learned Sub-Court, Tambaram, to try along with H.M.O.P.No.361 filed by the wife seeking for restitution of conjugal rights. The above said H.M.O.P.No.81 of 2019 was filed by the respondent/husband seeking for divorce.

3. Learned counsel appearing for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 03.02.2017 at Mahalakshmi Marriage Hall, Kallakuruchi, 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 on 15.08.2018, now aged about 2 years. After the birth of male child, the respondent/husband disallowed her to enter into matrimonial home and thereafter, she left from the matrimonial home and she is presently living with her parents at Thiruvallur, Chennai. On considering her age and welfare of

the child, she has filed H.M.O.P.No.361 of 2019 on the file of learned Sub-Court, Tambaram, seeking for restitution of conjugal rights. Thereafter, as a counter blast, the respondent/husband has filed H.M.O.P.No.81 of 2019 on the file of learned Sub-Court, Kallakurichi, seeking for divorce, and the same is pending. It is further submitted that since the petitioner/wife is having 2 years old male child with her custody, it is difficult for her to undertake long journey from Chennai to Kallakurichi, which is more than 250 kms., to attend each and every hearing, that too, at this difficult time, due COVID-19 pandemic. Therefore, if case filed by the husband is transferred to the file of learned Sub-Court, Tambaram, to try along with the case filed by the wife in H.M.O.P.No.361 of 2019, it will be convenient for both parties to conduct the case at one place.

4. I also find merit on the above said submission. Firstly, the distance between Chennai and Kallkurichi is more than 250 kms., and therefore, it is not feasible for the petitioner/wife, who is having 2 years old male child with her custody, to undertake a long journey thus far to attend each and every hearing, that too, at this difficult time, due to COVID-19 pandemic. Secondly, as petitioner/wife has already filed H.M.O.P.No.361 of 2019 on the file of learned Sub-Court, Tambaram, the respondent/husband has to appear before it in each and every hearing as he has not filed any petition to transfer the said HMOP filed by the wife. Therefore, considering the balance of convenience in favour of wife, H.M.O.P.No.81 of 2019 filed by the husband is withdrawn from the file of learned Sub-Court, Kallakurichi, consequently, transferred to the file of learned Sub-Court, Tambaram, to be tried along with H.M.O.P.No.361 of 2019 filed by the wife. On such transfer, learned Sub-Court, Tambaram, 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.3209 of 2019 is closed.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

rkm

To

1.Sub-Court, Kallakurichi.

2. Sub-Court, Tambaram.

Tr.C.M.P.No.89 of 2020

NRL (CO)

<https://hcservices.courts.gov.in/hcservices/>

GMI (24/09/2020)