

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.Nos.122 to 124 of 2020

P.Kalaiselvi ..Petitioner in all the Tr.C.M.P's

-vs-

N.Prasanna ..Respondent in all the Tr.C.M.P's

Transfer Civil Miscellaneous Petition No.122 of 2020 is filed under Section 24 of the Civil Procedure Code, to withdraw the G.W.O.P.No.43 of 2019 on the file of the Family Court, Dharmapuri and transfer the same to the Sub Court, Harur.

Transfer Civil Miscellaneous Petition No.123 of 2020 is filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.137 of 2019 on the file of the Family Court, Dharmapuri and transfer the same to the Sub Court, Harur.

Transfer Civil Miscellaneous Petition No.124 of 2020 is filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.20 of 2018 on the file of the Family Court, Dharmapuri and transfer the same to the Sub Court, Harur.

For Petitioner :: Mr.R.Dhanasekar
for Mr.R.Thamaraiselvan

For Respondent :: No appearance

ORDER

When the matters were taken up on 10.07.2020, there was no representation on behalf of the respondent. Therefore, this Court, giving one more chance to the respondent, directed the matters to be listed on 13.07.2020. Today also, when the matters are taken up, there is no representation for the respondent. Hence, this Court heard the learned counsel for petitioner through video conferencing due to the Covid-19 pandemic, as the respondent is not interested in prosecuting the matters.

2. The petitioner-Mrs.P.Kalaiselvi, Wife of Mr.N.Prasanna, the respondent herein has filed these transfer civil miscellaneous petitions seeking withdrawal of the G.W.O.P.No.43 of 2019, H.M.O.P.No.137 of 2019 & H.M.O.P.No.20 of 2018 respectively, from the file of the Family Court, Dharmapuri and transfer the same to the Sub Court at Harur.

3. Learned counsel appearing for the petitioner submitted that after the marriage was solemnized between the parties on 23.8.2012 at Arulmighu Vadapalani Andavar Temple, Chennai, as per the Hindu rites and customs in the presence of elders and relatives, both were blessed with a male child, who is aged about 7 years now. It is also stated that both the petitioner and the respondent contracted the second marriage, as they are divorcees. However, the respondent made some demand that was not agreed to by the petitioner. Besides, the petitioner also doubted the respondent's affair with one Nalini of Perambur, which was objected to by the respondent. Hence, the respondent filed O.P.No.3910 of 2015 before the Family Court, Chennai and subsequently, at the instance of the petitioner, the said petition was transferred to the Family Court, Dharmapuri and renumbered as H.M.O.P.No.20 of 2018. In the meanwhile, when the petitioner went to attend the Court hearing on 16.12.2019 at Dharmapuri, she was obstructed by the respondent and his father as well as their driver from moving further. Moreover, they also assaulted the petitioner for transferring the matter to the Family Court at Dharmapuri from Chennai and a First Information Report came to be registered in this regard. Besides, the petitioner also filed a case of domestic violence against the respondent in D.V.No.1 of 2016 before the learned Judicial Magistrate, Harur and the same is pending for trial. Secondly, the respondent also filed G.W.O.P.No.43 of 2019 before the Family Court, Dharmapuri seeking custody of the minor child, which is also pending. Hence, if the petitioner again comes to the Family Court at Dharmapuri to attend the case in G.W.O.P.No.43 of 2019, there is a life threat to her. However, the petitioner has also filed H.M.O.P.No.137 of 2019 before the Family Court, Dharmapuri for restitution of conjugal rights. In view of the untoward incident that took place on 16.12.2019, it is not safe and proper for the petitioner and her son to attend the hearing before the Family Court at Dharmapuri. Therefore, it was pleaded that all the matters may be transferred to the Sub Court, Harur for speedy disposal.

4. It is not in dispute that this Court has already transferred the O.P.No.3910 of 2015 filed by the respondent for divorce from the Family Court, Chennai to the Family Court, Dharmapuri, which has been renumbered as H.M.O.P.No.20 of 2018. The petitioner has also filed H.M.O.P.No.137 of 2019 before the Family Court, Dharmapuri seeking restitution of conjugal rights.

However, when the petitioner, after attending the hearing on 16.12.2019, came out of the Court, the respondent and his father along with their driver obstructed and assaulted the petitioner and a First Information Report also came to be registered. On an earlier occasion, the petitioner also filed a case of domestic violence in D.V.No.1 of 2016 before the learned Judicial Magistrate, Harur. When there is no representation on behalf of the respondent today, that clearly shows that the respondent has no objection for allowing these petitions. Secondly, the registration of First Information Report for the incident that took place on 16.12.2019 also shows that the petitioner cannot be allowed to face a threat at the hands of the respondent. Hence, these transfer civil miscellaneous petitions are allowed and the G.W.O.P.No.43 of 2019, H.M.O.P.No.137 of 2019 and H.M.O.P.No.20 of 2018 respectively, are withdrawn from the file of the Family Court, Dharmapuri and transferred to the Sub Court, Harur for a joint and expeditious trial on merit. Consequently, C.M.P.Nos.4230, 4262 & 4268 of 2020 are closed.

Sd/-

Assistant Registrar(AD I)MDU

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Sub Assistant Registrar

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To

1. The Family Court Judge
Dharmapuri
2. The Subordinate Judge
Harur

Tr.C.M.P.Nos.122 to 124 of 2020

VSN II (CO)
KKV/20/08/2020

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