

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.Nos.112 & 155 of 2020

K.Kala ..Petitioner in Tr.CMP No.
112 of 2020 & Respondent
in Tr.CMP No.155 of 2020

-vs-

Gurunath ..Respondent in Tr.CMP.No.
S/o Dharmar 112 of 2020 & Petitioner
in Tr.CMP No.155 of 2020

Transfer Civil Miscellaneous Petition No.112 of 2020 is filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.155 of 2019 on the file of the Sub Court, Thirumangalam and transfer the same to the file of the Family Court at Salem for being tried along with F.C.O.P.No.625 of 2019 pending therein.

Transfer Civil Miscellaneous Petition No.155 of 2020 is filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.625 of 2019 on the file of the Family Court, Salem and transfer the same to the file of the Sub Court, Thirumangalam at Madurai for joint trial along with H.M.O.P.No.155 of 2019.

For Petitioner(s)	::	Mr.C.Arun Kumar in Tr.CMP No.112/2020
		Mr.S.Parthasarathy in Tr.CMP No.155/2020
For Respondent(s)	::	Mr.S.Parthasarathy in Tr.CMP No.112/2020
		Mr.C.Arun Kumar in Tr.CMP No.155/2020

ORDER

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

2. These two transfer civil miscellaneous petitions are taken up together. Mrs.K.Kala, Wife of Mr.D.Gurunath has filed the Tr.C.M.P.No.112 of 2020 seeking withdrawal of the H.M.O.P.No.155 of 2019 pending on the file of the Sub Court, Thirumangalam and transfer the same to the file of the Family Court at Salem for being tried along with F.C.O.P.No.625 of 2019 seeking restitution of conjugal rights. Mr.D.Gurunath, Husband of Mrs.K.Kala has also filed the Tr.C.M.P.No.155 of 2020 seeking withdrawal of the H.M.O.P.No.625 of 2019 on the file of the Family Court, Salem and transfer the same to the file of the Sub Court, Thirumangalam at Madurai for joint trial along with H.M.O.P.No.155 of 2019 seeking divorce. For convenience, the parties will be referred to as the "Husband" and "Wife" in this order.

3. The parties got married on 30.12.2014 at Arulmigu Venkatachalapathy Devasthanam Temple, Tirupati, Andhra Pradesh, as per the Hindu rites and customs and they lived together in Chennai and thereafter, the Husband went to Singapore and is presently employed there. While the couple were living in Chennai, there was some misunderstanding and it is the allegation of the Husband that the Wife declined to provide food to him and often used to pick up quarrel even on trivial issues. In the month of September 2015, the Wife delivered a male child in Thirumangalam. But the Wife was not taking care of the baby. When she was advised to take care of the child, the Wife used to threaten that she would commit suicide. While so, when they were in Singapore, on 28.9.2016, she also jumped from the window of the house from the fourth floor and sustained grievous injuries. She was immediately taken to Changi Hospital, Singapore and after treatment, she was brought to Coimbatore for further treatment. After recovery, in spite of making phone calls, she never bothered to contact her Husband nor cared for the child. Therefore, it is the claim of the Husband that his Wife deserted him and the child since December, 2016. Hence, he sent a legal notice to his Wife to come for reunion. But she failed to reply, resultantly, he filed the H.M.O.P.No.155 of 2019 before the Sub Court, Thirumangalam praying for divorce on the ground of desertion and cruelty.

4. On the other hand, learned counsel appearing for the Wife pleaded that right from day one of the marriage, the inlaws had shown disparity over the caste issues, because the Wife belongs to Arunthathiyar community and the Husband belongs to Vanniyar community. Only due to the interference of her mother-in-law,

misunderstanding has gone beyond limits. During the year 2014, the Husband and Wife went to Singapore due to his employment. Since the sister of the Husband and her husband were also staying in the same residence at Singapore, the Wife was denied her private space with her Husband. However, when she delivered the child during the year 2015, they celebrated the birth of the child in a grand manner at Madurai. After the child's birth, the Wife was taken to Madurai. Thereafter, the entire family members of the Husband with the Wife went to Singapore and there also, the ill-treatment continued. When both the Husband and Wife were living in Singapore, she sustained grievous injuries and she was not given sufficient medical care. Therefore, she was brought to Coimbatore and admitted at Kovai Medical College and Hospital for treatment. While so, the Wife received a notice on 23.1.2018 seeking for divorce. Immediately, when the Wife and her family members went to the Husband's house at Madurai, they refused to accept Mrs.K.Kala. On the other hand, they wanted the Wife to sign some papers for divorce. Therefore, she went back to Salem and filed the F.C.O.P.No.625 of 2019 for restitution of conjugal rights on the file of the Family Court, Salem. In the meanwhile, the Husband also filed the H.M.O.P.No.155 of 2019 before the Sub Court, Thirumangalam seeking divorce on the ground of desertion and cruelty. Now the distance between Salem and Thirumangalam is about 250 Kms., and the Wife has to spend a minimum of Rs.3,000/- for each travel along with the child and other expenses. Secondly, the learned counsel for the Wife also stated that due to the fall from the fourth floor of the house at Singapore, the Wife suffered fracture and even now she is taking treatment. Hence, it will be difficult to undertake a long journey.

5. Mr.S.Parthasarathy, learned counsel appearing for the Husband submitted that Mrs.K.Kala is always problematic. When the Husband's sister and her husband were staying together, the same was not liked by Mrs.K.Kala. Secondly, whenever there is any small issue, she used to unnecessarily blow the issue out of proportion. Finally she also attempted to commit suicide by jumping out of the fourth floor. Fortunately she survived and thereafter she was taken to Changi Hospital at Singapore and subsequently moved to Salem and admitted in the Kovai Medical College and Hospital at Coimbatore. The male child who is aged about 5 years is with the father in Singapore. Now in view of the extreme step taken by Mrs.K.Kala attempting to commit suicide by jumping down from the fourth floor, it has become out of question to live with her, because she is not adjustable. Therefore, he has been advised to file the H.M.O.P.No.155 of 2019 on the file of the Sub Court, Thirumangalam seeking divorce. Now the parents of Mr.D.Gurunath living in Thirumangalam are taking care of the case and they have been given authorisation to conduct the case on behalf of

Mr.D.Gurunath. Hence, it will be difficult for the Husband to travel from Singapore to attend the case at the Family Court, Salem. But Mr.C.Arun Kumar, learned counsel appearing for the Wife stated that in any event, he has to either come down to the Sub Court, Thirumangalam or to the Family Court, Salem. Therefore, in view of the injuries sustained by the Wife, if the H.M.O.P.No.155 of 2019 is withdrawn from the file of the Sub Court, Thirumangalam and transferred to the Family Court, Salem to be tried along with F.C.O.P.No.625 of 2019, no prejudice would be caused to anyone.

6. But this Court taking note of the Covid-19 corona pandemic spread all over the world, the life style of the people has undergone a revolutionary change. Even small children studying Standards II, III, IV & V not only in Tamil Nadu, not only in India, but all over the world are pursuing their studies only through online by sitting at their homes. The lower Courts presided over by the learned District Munsif, Judicial Magistrate, Subordinate Judge, District Judge cadres, High Courts and the Supreme Court are also functioning through video conferencing. Even the Tribunals, on the other hand, have also changed to online proceedings. The litigants have also become familiar with the virtual online Court proceedings. When time has changed the life style of the people, we cannot remain static and we should also move along with the time, failing which we will have to suffer untold misery. Therefore, time has come to familiarise with the online proceedings even in the Family Court matters. Secondly, the Husband herein and his son are staying in Singapore and it will be highly difficult, rather it will be unfair to drag him to come from Singapore to attend the case pending before the Family Court, Salem and also the Sub Court, Thirumangalam.

7. Even today, when this Court is also hearing the case of both the Husband and Wife through video conferencing, when Mr.C.Arun Kumar, learned counsel for the Wife, sitting in his office cum residence at Perungudi, Chennai has been conducting the case and Mr.S.Parthasarathy, learned counsel appearing for the Husband, sitting in his office cum residence at Nolumbur, Chennai, is conducting the case through video conferencing at Chennai, when everything goes smoothly, why cannot we order the same proceedings to be followed by the Family Court, Salem, so that it would be saving the time of both the Husband and Wife. Therefore, this Court withdraws the H.M.O.P.No.155 of 2019 from the file of the Sub Court, Thirumangalam and transfers the same to the file of the Family Court, Salem to be tried along with F.C.O.P.No.625 of 2019. The learned Family Court Judge, Salem is hereby directed to club both the matters and give the benefit of video conferencing to both the parties. Both the learned counsel appearing for the parties also stated that in view of

the familiar video conferencing facilities accepted by all the people in all walks of life, the Husband need not unnecessarily come from Singapore to the Family Court, Salem. Recording the same, the personal appearance of the Mr.D.Gurunath is dispensed with and he is permitted to appear through video conferencing as and when the Family Court, Salem directs him to appear through video conferencing. Video conferencing can be allowed in cases where one party is residing outside the district, outside the State and out of country. Nowadays, at the huge investments and expenditures, when all the lower Courts are also connected with video conferencing facilities, such facilities can be continued in future so that if any party living at far off place is unable to come to Court and seeks time or transfer of the same proceedings, that causes delay and huge expenditures. To avoid such delay in disposal of the cases and also unnecessary expenditures, this Court is of the opinion that the present video conferencing facilities can be resorted to in future also whenever any litigant asks for video conferencing facilities on reasonable grounds. Hence, the learned Family Court Judge, Salem is directed to take up the H.M.O.P.No.155 of 2019 and the F.C.O.P.No.625 of 2019 for joint trial and dispose of the same on their own merit and in accordance with law within a period of six months. With this direction, both the transfer civil miscellaneous petitions stand disposed of. Consequently, C.M.P.Nos.3843 & 5221 of 2020 are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Subordinate Judge
Thirumangalam, Madurai.
2. The Judge,
Family Court, Salem.

+2cc to Mr.S.Parthasarathy, Advocate, Sr.No.28518

Tr.C.M.P.Nos.112 & 155 of 2020

svi (co)
rr ii (05/11/2020)