

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.178 of 2020

Ruksar

.. Petitioner

-VS-

Jamabhasha

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the O.S.No.5 of 2019 on the file of the Family Court, Namakkal and transfer the same to the Principal Sub Court, Harur, Dharmapuri District.

For Petitioner :: Mr.A.K.Balaji

For Respondent :: No appearance

ORDER

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

2. The petitioner, Mrs.Ruksar, Wife of Mr.Jamalbhasha, the respondent herein has filed this transfer civil miscellaneous petition seeking an order to withdraw the O.S.No.5 of 2019 from the file of the Family Court, Namakkal and transfer the same to

the file of the Principal Sub Court, Harur, Dharmapuri District.

2. Learned counsel appearing for the petitioner submitted that after the solemnization of marriage between the parties on 8.1.2015 at Periya Nagarachi Mandapam, opposite to Erode Bus Stand, Erode, they were living together and out of the said wedlock, one girl child was also born. The respondent was running a small electrical shop at the time of marriage. But he could not maintain the electrical shop that ran into losses, resultantly, he closed down the shop. After closing down the electrical shop, he did not go to any job for several months. Later on, due to compulsion from the parents, the respondent took up a job of his choice and started living like a free lancer. He also used to behave rudely with the petitioner and also involved in physical, mental and psychological harassment everyday. Therefore, the petitioner filed a suit in O.S.No.5 of 2019 before the Family Court, Namakkal seeking divorce. But the respondent and his relatives used to threaten the petitioner at the time of going to the Court for her appearance. Since there is no safety for her life and her girl child, she has been advised to seek for transfer of the suit from the file of the Family Court, Namakkal to the file of the Principal Sub Court, Harur. Learned counsel appearing for the petitioner also submitted that the petitioner is also working in Harur, therefore, the matter may be transferred to the Principal Sub Court at Harur.

3. But this Court is not able to find any substance in the said submissions. The reason being that the petitioner herself has filed the O.S.No.5 of 2019 seeking for divorce on the file of the Family Court, Namakkal and merely on an apprehension that the respondent and his family members are threatening the petitioner and her child, she cannot ask for transfer. There is no proof of threat filed or shown before this Court. Even the factum of getting employment in Harur is neither pleaded in the petition nor a copy of the order of appointment is enclosed. Therefore, finding no merits, the transfer civil miscellaneous petition stands dismissed. However, since the matter is pending for quite a long time, learned counsel for the petitioner requested this Court for a direction to the trial Court to dispose of the matter early. Agreeing to the said request, the learned Family Court Judge, Namakkal is directed to dispose of the matter as expeditiously as possible. Consequently, C.M.P.No.5790 of 2020 is also dismissed.

Speaking/Non speaking order

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20.08.2020

Index : yes/no

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T.RAJA, J.

SS

To

1. The Family Court Judge
Namakkal



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