

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.151 of 2020

S.Umavathi

.. Petitioner

Versus

Satheeshkumar

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.100 of 2019 pending on the file of learned Sub-Court, Sangakiri, and to transfer the same to the file of learned Sub-Court, Avinashi, to be tried along with H.M.O.P.No.104 of 2019 pending on the file of learned Sub-Court, Avinashi.

For Petitioner : Mr.P.Tamilavel

For Respondent : Mr.R.Marudhachalamurthy

O R D E R

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

2. Mrs.S.Umavathi/petitioner herein, wife of Mr.Satheeshkumar/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.100 of 2019 from the file of learned Sub-Court, Sangakiri, to the file of learned Sub-Court, Avinashi, to try along with H.M.O.P.No.104 of 2019 filed by the wife seeking for restitution of conjugal rights. The above said H.M.O.P.No.100 of 2019 was filed by the respondent/husband seeking for divorce on the ground of cruelty.

3. Learned counsel appearing for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 30.05.2012 at Chandra Mahal Mandampam, Avinashi, Tirupur District, as per Hindu Rites and Customs, in the presence of well-wishers of both family. Out of the said wedlock, they were blessed with two children, by name Prithikasree and Krithiraj, on 02.04.2013 and 27.02.2015

respectively. The petitioner/wife is working as Anganwadi worker in S.Mettupalayam Avinashi and the respondent/husband is working as computer Operator in Cooperative Society.

4. It is at this stage, learned counsel for the respondent/husband submitted that the respondent/husband is jobless .

5. Learned counsel for the petitioner/wife further submitted that after the birth of children, there were some difference of opinion between them and thereafter, she left from the matrimonial home on 05.10.2011. Later-on, although panchayat was conducted, the same went in vein and finally, the respondent/husband filed H.M.O.P.No.100 of 2019 on file of learned Sub-Court, Sankagiri, seeking for divorce on the ground of cruelty. Subsequently, the petitioner/wife also filed H.M.O.P.No.104 of 2019 on the file of learned Sub-Court, Avinashi, seeking for restitution of conjugal rights, and the same is pending. It is further submitted that the distance between Avinashi and Sankagiri is about 100 kms., and therefore, it is not feasible for the petitioner/wife to undertake such a long journey along with her two school going children. Therefore, if the case filed by the husband is transferred to the file of learned Sub-Court, Avinashi, it will be convenient for both parties to contest the case at one place. Besides, since the respondent/respondent has not filed transfer petition seeking transfer of H.M.O.P.No.104 of 2019 filed by the wife, he has to appear before learned Sub-Court, Avinashi, whenever called for.

6. Learned counsel for the respondent/husband submitted that when the husband went to the residence of petitioner/wife, he was attacked by the family members of wife and thereafter, he has also filed a police complaint against the family members of petitioner/wife and therefore, if the case filed by him is transferred to Avinashi, where the wife resides, there will be a life threat to him, hence, the matter need not be transferred to the file of learned Sub-Court, Avinashi.

7. I am unable to accept the above said submission of the respondent/husband, for, the case filed by the petitioner/wife seeking for restitution of conjugal rights is pending before the learned Sub-Court, Avinashi, in H.M.O.P.No.104 of 2019, and in the said proceedings, he has to attend each and every hearing as he has not admittedly filed any petition seeking transfer of the same. Secondly, the petitioner/wife is having two school going children with her custody and therefore, it will be difficult for her to undertake a long journey from Avinashi to Sankagiri, which is about 100 kms., to attend each and every hearing. Therefore, considering the balance of convenience in favour of

wife, H.M.O.P.No.100 of 2019 filed by the husband is withdrawn from the file of learned Sub-Court, Sangakiri, consequently, transferred to the file of learned Sub-Court, Avinashi, to be tried along with H.M.O.P.No.104 of 2019 filed by the wife. On such transfer, learned Sub-Court, Avinashi, 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.5085 of 2020 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.Sub-Court, Sangakiri.

2.Sub-Court, Avinashi.

+1cc to Mr.P.Tamilavel, Advocate SR.26516

+1cc to Mr.R.Marudhachalamurthy, Advocate SR.26510

Tr.C.M.P.No.151 of 2020

AJS (CO)

VS 27.08.2020



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