

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P. No.187 of 2020 and C.M.P. No.6022 of 2020

Suriya @ S.N.Sindhuja

.. Petitioner

-vs-

R.Ganesan

... Respondent

Prayer: Petition filed under Section 24 of C.P.C. to withdraw the divorce petition pending in H.M.O.P. No.113 of 2018 on the file of the Sub Court, Poonamallee and transfer the same to the file of Family Court, Karaikal.

For Petitioner : Mr.S.V.Karthikeyan

For Respondent : No appearance

O R D E R

Suriya @ S.N.Sindhuja, the petitioner herein has filed this petition for transfer of H.M.O.P. No.113 of 2018 pending on the file of the Subordinate Court, Poonamallee to the file of the Family Court, Karaikal.

2.Learned counsel appearing for the petitioner would submit that the marriage between the petitioner and the respondent was solemnized on 07.11.2013 as per the Hindu rites and customs at E.J.B.Mahal, Pudur, Redhills Road, Ambattur, Chennai-600 053 and they were blessed with a female child on 19.08.2014 in the Raj Nursing Home, Mugappair and a male child on 30.10.2017. After the birth, difference of opinion arose between themselves and that the respondent suspected the petitioner without any justification or reason. Thereafter, the respondent filed a petition in H.M.O.P. No.113 of 2018 before the Sub Court, Poonamallee, Thiruvallur District seeking divorce.

3.Learned counsel appearing for the petitioner would further submit that although the respondent has been working in Qatar, the petitioner was residing in the matrimonial house at No.27, Devaraj Illam, Subbaraya Mudali Street, Karaikal, where the respondent's parents are also residing in a separate portion. In view of the difficulties faced by the petitioner with her husband and in-laws, she filed a Domestic Violence Petition in

D.V.C. No.4 of 2019 before the learned Judicial Magistrate No.II, Karaikal, who had passed an interim order restraining the respondent and others from dispossessing or any other manner disturbing the possession of the petitioner from the share house hold or peaceful living of the petitioner in the matrimonial house on 04.06.2019.

4.Affidavit of service filed by the petitioner shows that although notice from this Court and private notice sent by the counsel for the petitioner, have reached the address of the respondent in Karaikal and the parents of the respondent also have the knowledge about the said proceedings, the notice was returned with an endorsement 'left India without intimation', which clearly shows that the respondent has deliberately refused to receive the said notice. Although the respondent left India and admittedly working in Quatar, the parents of the respondent, who are residing in the same house, where the petitioner is also residing in a separate portion, should have accepted the notice and communicated the same to the respondent, which has not been done. Further it is seen that in the Domestic Violence Petition in D.V.C. No.4 of 2019 filed by the petitioner before the learned Judicial Magistrate No.II, Karaikal, the parents of the respondent are also parties. Therefore this Court is the view that the respondent is evading the process of service of notice.

5.Taking note of the fact that neither the counsel for the respondent nor the respondent has chosen to appear before this Court, which would show that the respondent is not interested in conducting the case and he has no objection in allowing this petition, this Court is inclined to allow this petition. Accordingly, the Transfer C.M.P. stands allowed and the H.M.O.P. No.113 of 2018 pending on the file of the Sub Court, Poonamallee is withdrawn and transferred to the file of the Family Court, Karaikal. The Family Court, Karaikal shall dispose of the case expeditiously, on merits and in accordance with law. Consequently, C.M.P. No.6022 of 2020 is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1.The Sub Court, Poonamallee.
2.The Family Court, Karaikal.

Tr.C.M.P. No.187 of 2020
and C.M.P. No.6022 of 2020

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