

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.225 of 2020

M.Venkatesan ... Petitioner

-vs-

Mrs.Kotteeswari
W/o Venkatesan ... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the F.C.O.P.No.34 of 2020 on the file of the Family Court, Chengalpattu and transfer the same to the Sub Court, Madurantakam, to be tried along with H.M.O.P.No.61 of 2019.

For Petitioner :: Mr.P.Murali

For Respondent :: No appearance

ORDER

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

2. Mr.M.Venkatesan, the petitioner and husband of Mrs.Kotteeswari, the respondent herein, after solemnization of marriage on 4.6.2008 at Kandasamy Temple, Thiruporur, was living happily with the respondent in their matrimonial home. But after sometime, the respondent started to give all trouble for arrangement of a separate family without the petitioner's mother. The petitioner being an agriculturist, was unable to move from his village, but the respondent/wife continuously

tortured the petitioner. Even the petitioner and his family were put to great mental agony and torture and were also subjected to disgrace and shame. Again the respondent never cared for the petitioner. Finally, she left the matrimonial home and started living with her parents at Pudur village, which is 10 Kms., away from the matrimonial home. Thereafter, on the advice of the family members and well wishers, the petitioner filed H.M.O.P.No.61 of 2019 before the Sub Court, Madurantakam under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights.

3. Learned counsel appearing for the petitioner submitted that when the petition seeking restitution of conjugal rights in H.M.O.P.No.61 of 2019 was filed before the Sub Court, Madurantakam, the correct address of the respondent, namely, No.149, Pudur village was correctly mentioned, on which address the service was effected. On receipt of notice from the Sub Court, Madurantakam in H.M.O.P.No.61 of 2019, the respondent/wife also came and participated in the mediation efforts initiated at the Sub Court, Madurantakam. When the respondent is residing at No.149, Pudur Village, which is 10 Kms., from the matrimonial home, by showing a change in address, she filed the F.C.O.P.No.34 of 2020 before the Family Court at Chengalpattu as a counter blast seeking divorce, as though she is residing in Chengalpattu. Learned counsel for the petitioner also submitted that from the residence of the respondent, namely, Pudur village, Madurantakam is about 10 Kms., whereas the distance from Pudur to Chengalpattu is about 40 Kms. Similarly, the distance from Madurantakam to Chengalpattu is about 30 Kms. Therefore, when the respondent also has participated in the mediation, it clearly shows that she is ready for re-union. Secondly, she has also not asked for transfer of the H.M.O.P.No.61 of 2019 from the Sub Court, Madurantakam to the Family Court at Chengalpattu. That shows that she is prepared to appear before the Sub Court, Madurantakam. On the other hand, if the F.C.O.P.No.34 of 2020 is withdrawn from the file of the Family Court at Chengalpattu and transferred to the Sub Court at Madurantakam, it will be only convenient for both the parties to contest the cases. The reason being that the distance from Pudur to Madurantakam is only 10 Kms., and admittedly the respondent, on receipt of notice in the H.M.O.P.No.61 of 2019, has appeared before the mediation centre at the Sub Court, Madurantakam. Only after three hearings, the respondent has filed the H.M.O.P.No.34 of 2020 for divorce before the Family Court at Chengalpattu. Even on receipt of notice, she has not chosen to appear before this Court. That shows that she has no objection for allowing this petition. Hence, for the reasons mentioned above, the transfer civil miscellaneous petition stands allowed and the F.C.O.P.No.34 of

2020 is withdrawn from the file of the Family Court, Chengalpattu and transferred to the file of the Sub Court, Madurantakam for an expeditious disposal on merits, along with H.M.O.P.No.61 of 2019. Consequently, C.M.P.No.6709 of 2020 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Family Court Judge,
Chengalpattu.
2. The Subordinate Judge,
Madurantakam.

Tr.C.M.P.No.225 of 2020

ajs[col]
srg 25/09/2020