

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.215 of 2020

A.Divya @ Sathyabharathi .. Petitioner

-vs-

S.Gurumoorthy .. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.133 of 2019 on the file of the Sub Court, Cheyyar and transfer the same to the Sub Court, Poonamallee to be tried along with the restitution of conjugal rights petition in H.M.O.P.No.236 of 2020.

Civil Miscellaneous Petition filed under Section 151 of the Civil Procedure Code to stay all further proceedings of the case in H.M.O.P.No.133 of 2019 on the file of the Subordinate Court, Seiyaaru.

For Petitioner :: Mr.C.R.Malarvannan

For Respondent :: No appearance

ORDER

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

2. The petitioner, Mrs.A.Divya alias Sathyabharathi, Wife of Mr.S.Gurumoorthy, the respondent herein has filed this transfer civil miscellaneous petition seeking withdrawal of the H.M.O.P.No.133 of 2019 from the file of the Sub Court, Cheyyar and transfer the same to the Sub Court, Poonamallee to be tried along with H.M.O.P.No.236 of 2020 filed by the petitioner for restitution of conjugal rights.

3. Learned counsel appearing for the petitioner submitted that after the solemnization of marriage on 9.4.2017 in Thirumathi Mahal, Arani Salai, Tiruvannamalai District, as per the Hindu rites and customs, in the presence of well wishers of both the families, a male child was also born on 19.3.2018. At

present, the child is aged about 2 years and is under the care and custody of the petitioner/mother. While so, the respondent started ignoring the petitioner. When the petitioner went to her house for Aadi, the respondent refused to stay in her parental home. In the meanwhile, Seemandham function was also conducted on 31.12.2017. The respondent made some demands that have further strained their relationship. Now the petitioner has filed H.M.O.P.No.236 of 2020 seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act on the file of the Sub Court, Poonamallee, whereas the respondent has filed a petition for divorce in H.M.O.P.No.133 of 2019 before the Sub Court, Cheyyar with false allegations through his counsel. But the petitioner finds it very difficult to appear before the Sub Court, Cheyyar along with the male child aged 2 years. Therefore, when the respondent has to appear and contest the petition for restitution of conjugal rights before the Sub Court, Poonamallee, the divorce petition pending on the file of the Sub Court, Cheyyar may be transferred to the file of Sub Court, Poonamallee, so that both the matters can be tried together.

4. Although Court notice has been served on the respondent, none appeared. The non appearance clearly shows that the prayer in the transfer petition can be granted. Secondly, the petitioner is having a two year old male child. Thirdly, she has also filed H.M.O.P.No.236 of 2020 for restitution of conjugal rights before the Sub Court, Poonamallee. Fourthly, as the respondent is employed as a Senior Engineer (Maintenance) in Tiruveni Rubber Company Private Limited at Maraimalai Nagar, Chennai, it will be also convenient for him to appear before the Sub Court, Poonamallee. Hence, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.133 of 2019 is withdrawn from the file of the Sub Court, Cheyyar and transferred to the Sub Court, Poonamallee for an expeditious disposal on merits, along with H.M.O.P.No.236 of 2020. Consequently, C.M.P.No.6497 of 2020 is closed.

Sd/-

Assistant Registrar(CO MDU)

//True copy//

Sub Assistant Registrar

Ss

To

1. The Subordinate Judge, Cheyyar
2. The Subordinate Judge, Poonamallee

Tr.C.M.P.No.215 of 2020

RLD(CO)

GMV(10/09/2020)