

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

TR.C.M.P.NO.228 OF 2020

D.Devi

.. Petitioner

-vs-

B.Sankar

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.4422 of 2017 on the file of VII Additional Family Court, Chennai and transfer the same to the file of the learned Subordinate Judge, Poonamallee.

For Petitioner :: Mr.M.R.Elavarasan

For Respondent :: No appearance

ORDER

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

2. The petitioner, Mrs.D.Devi, W/o Mr.B.Sankar, the respondent herein has come to this Court seeking an order for withdrawal of the H.M.O.P.No.4422 of 2017 from the file of the VII Additional Family Court, Chennai and transfer the same to the file of the Sub Court, Poonamallee to be tried along with the H.M.O.P.No.747 of 2018 filed by the petitioner seeking restitution of conjugal rights.

3. Learned counsel appearing for the petitioner submitted that after the solemnization of marriage between the parties on 11.11.2016, both of them were leading a happy life. But later on, the respondent started consuming alcohol and used to scold the petitioner using filthy language. Even the in-laws also were encouraging such behaviour. Therefore, the petitioner went to her parental home. But, unfortunately, her pregnancy got aborted. Thereafter, she came back to the matrimonial home and in the month of May, 2017, her father also passed away. Hence, the respondent advised the petitioner to stay with her mother

for sometime with a promise that she would be taken back to the matrimonial home. Subsequently, when the respondent's family were not showing any response, the petitioner went to the matrimonial home, but it was locked. When the petitioner went to the respondent's photo shop, she was not even allowed to enter into the shop and she was abused. Therefore, the petitioner came back and filed the H.M.O.P.No.747 of 2018 under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights on the file of the Sub Court, Poonamallee. However, in the meanwhile, the respondent also filed the H.M.O.P.No.4422 of 2017 seeking divorce, on the ground of cruelty, before the VII Additional Family Court, Chennai. As the petitioner is ready and willing for restitution of conjugal rights, she has filed the H.M.O.P.No.747 of 2018 and the same is also pending on the file of the Sub Court, Poonamallee. Hence, if the H.M.O.P.No.4422 of 2017 is withdrawn from the VII Additional Family Court, Chennai and transferred to the Sub Court, Poonamallee, no prejudice would be caused to anyone, as both the matters can be taken up together for common disposal.

4. Although Court notice has been served on the respondent, no one has entered appearance. That shows that the respondent has no objection for transfer of the H.M.O.P.No.4422 of 2017 from the file of the VII Additional Family Court, Chennai to the Sub Court, Poonamallee. Secondly, the petitioner is seeking restitution of conjugal rights in H.M.O.P.No.747 of 2018, whereas the respondent is seeking divorce in H.M.O.P.No.4422 of 2017, therefore, both the matters need to be commonly tried. Hence, to avoid multiplicity of proceedings, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.4422 of 2017 is withdrawn from the file of the VII Additional Family Court, Chennai and transferred to the file of the Sub Court, Poonamallee for a joint trial of both the matters on merit by the Court below. Consequently, C.M.P.No.6872 of 2020 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The VII Additional Family Court,
Chennai

2. The Sub Court,
Poonamallee.

+1cc to Mr.M.R.Elavarasan, Advocate, S.R.No.33031

Tr.C.M.P.No.228 of 2020

GMR (CO)
CS/05/11/2020



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