

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Transfer C.M.P.No.514 of 2019

Kanchana

...Petitioner

vs.

A.Senthil Maharaj

...Respondent

Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.3564 of 2011 along with connected H.M.O.P.No.1967 of 2015, pending on the file of the Principal Judge, Family Court at Chennai and transfer both the cases to some other Family Court at Chennai.

For Petitioner : M/s.Divya

For Respondent : Mr.R.Managala Kumar

O R D E R

Petitioner/wife has come up with this Transfer Civil Miscellaneous Petition seeking to transfer the proceedings in H.M.O.P.No.3564 of 2011 along with connected H.M.O.P.No.1967 of 2015 on the file of the Principal Judge, Family Court, Chennai, to the file of any other Family Court at Chennai.

2. While, H.M.O.P.No.1967 of 2015 is filed by the Petitioner/wife seeking divorce and permanent alimony, H.M.O.P.No.3564 of 2011 is filed by the Respondent/husband seeking restitution of conjugal rights.

3. Heard the learned counsel for the parties and perused the material documents available on record.

4. It is very unfortunate that the Petitioner/wife is afflicted with cancer. According to the Petitioner, the Presiding Officer of the Principal Family Court, Chennai had been insisting the parties herein to proceed with the matter expeditiously. Even the letter given by the Petitioner to the Presiding Officer of the Family Court, Chennai, makes it clear that, the Petitioner was under the wrong impression about the conduct of the proceedings. A perusal of the records makes it clear that the Presiding Officer had only insisted the parties to conduct the case and conclude it at the earliest point of

time.

5. It is no doubt true that Family Court cases should not be proceeded hastily, but in a steady manner. It does not mean that it should go in a snail-paced manner. It is the duty of the Presiding Officer to dispose of pending cases expeditiously, as they are answerable to the High Court, when questions are posed to them as to why old matters are not disposed of at the earliest point of time. Judges, who are hearing Family Court matters are under extreme work pressure, as they are handling different types of persons in each case. This is one such case, where the Presiding Officer intended to conclude the proceedings at the earliest point of time, as the proceedings are of the years 2011 and 2015.

6. If the Petitioner's request for transfer of the proceedings is accepted, it will certainly cause disturbance in the mind of the Presiding Officer, as he is discharging his duties in accordance with the requirements of the Judicial system.

7. When the matter was taken up on the last occasion, it was represented by the learned counsel appearing for the Respondent that, the Respondent/husband is ready to part with a sum of Rs.35 lakhs as full and final settlement, so that, the entire matter could be given a quietus to. However, the Petitioner was not ready to accept the said sum as full and final settlement, as the Respondent/husband, who is a businessman, owns lands worth several crores of rupees, in Race Course Road, Coimbatore. Hence, this Court posed a question to the learned counsel appearing for the Respondent, as to whether the settlement amount can be increased to Rs.40 lakhs.

9. Today, when the matter is taken up, it is represented by the learned counsel for the Petitioner/wife submitted that, she persuaded the Petitioner to accept a reasonable amount as settlement. But, the Petitioner demands a sum of Rs.25 crores as final settlement.

10. Admittedly, the Petitioner is undergoing treatment for Cancer and she requires Taking note of the fact that the Petitioner requests funds for treatment, this Court also suggested that a lumpsum compensation can be obtained, without being made to run from Court to Court, as she may have to go for a periodical check-ups and treatment. Due to the illness and stress in the family front, this Court is of the view that she is unable to take a decision on the compensation, to give a quietus to the matter. This Court cannot force the parties to arrive at a settlement.

11. Taking note of the fact that there is no justification in seeking transfer of proceedings, this Court is not inclined to grant the relief sought by the Petitioner. This Court expects the Presiding Officer shall take up the matter without adjourning the same beyond 21 working days at any point of time, as the proceedings in H.M.O.P.No.3564 of 2011 matter is almost a decade old.

12. Before parting with, learned counsel for the Petitioner/wife represented that the Court below ordered that a sum of Rs.30,000/- be paid to the Petitioner/wife by the Respondent/husband towards maintenance. In response, learned counsel appearing for the Respondent/husband submitted that the Respondent/husband has already paid the maintenance amount and that he will advise his client to pay the same, if not already paid.

13. This Court expects the Respondent/husband to pay the maintenance amount, if any due, within a period of one month from the date of receipt of a copy of this order, and continue to pay the future instalments, in time.

14. This Transfer Civil Miscellaneous Petition is dismissed with the above directions and observations. No costs. Consequently, connected C.M.P.No.17753 of 2019 is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

(aeb)

To :

The Principal Judge, Family Court, Chennai.

+lcc to Mr.Auxilia Peter, Advocate SR.1569

+lcc to Mr.R.S.Mangal Kumar, Advocate SR.1186

JP(CO)
CB(14/02/2020)

Tr.C.M.P.No.514 of 2019