

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.475 of 2020

and C.M.P. No.11608 of 2020

S.Chithra @ Mangala

... Petitioner/Respondent

-VS-

P.Govindarajulu

... Respondent/Petitioner

Prayer: Petition filed under Section 24 of C.P.C to withdraw HMOP.No.70/2019 on the file of the Subordinate Judge, Tiruttani and to transfer the same to the file of the Subordinate Judge, Hosur to try along with HMOP.No.52/2020.

For Petitioner : Mr.D.Ramesh Kumar

For Respondent : No appearance

O R D E R

The Transfer C.M.P. has been filed seeking to withdraw HMOP.No.70/2019 on the file of the learned Subordinate Judge, Tiruttani and to transfer the same to the file of the learned Subordinate Judge, Hosur to be tried along with HMOP.No.52/2020.

2. Learned Counsel for the petitioner submitted that after solemnization of the marriage on 22.05.2013 at G.R.H.Kalyanamandapam, Pallipet, as per the Hindu rites and customs, they started living happily at Denkanikottai. The respondent-husband is a Government School Teacher working in the Government School in Denkanikottai. During that time, they were blessed with a male baby on 28.01.2015, namely, Poojali Anirudh. Thereafter, the respondent got transfer to a school in Sengattanur Village, Thiruvallur District and he used to visit the petitioner wife and his son once in a week. Again, they were blessed with another male child on 04.01.2017, namely, Poojali Samrudh. Thereafter, the respondent skipped to visit the petitioner wife and his sons. Whiles, the petitioner along with her two sons moved to the respondent's house at Sengattanur Village. But the respondent husband sent out the petitioner wife from the matrimonial home by retaining his two sons demanding dowry. After taking efforts to restore the custody of the children, now the elder son is with the respondent-father and the younger son is with the petitioner mother. The petitioner made a complaint to the All Women Police

Station, Denkanikottai seeking the custody of her elder son and for continuance of the marital life. They advised the parties to live happily by avoiding frequent quarrels.

3. Learned Counsel for the petitioner further submitted that thereafter, the respondent has filed HMOP.No.70/2019 before the learned Subordinate Judge, Tiruttani, on the ground of cruelty whereas the petitioner wife has filed HMOP.No.52/2020 seeking restitution of conjugal rights on the file of the learned Subordinate Judge, Hosur. Since the petitioner along with her younger son is living with her widowed mother and no male person is available in her family to take care of them, she finds it difficult to travel from Denkanikottai Town to Tiruttani which is about 320 kms. away from her residence. Hence, she was advised to file the present Transfer CMP. seeking to withdraw HMOP.No.70/2019 on the file of the learned Subordinate Judge, Tiruttani and to transfer the same to the file of the learned Subordinate Judge, Hosur to be tried along with HMOP.No.52/2020.

4. A detailed counter affidavit has been filed by the respondent husband stating that the respondent is a physically challenged person. Therefore, he cannot travel without the help of others to a long distance. In addition, he is also working as a Teacher in a Government School, Sengattanur Village. Secondly, he is having the eldest son with him. Thirdly he is also having a physically challenged father aged about 76 and his mother aged about 70 years old and he has to take care of all of them. Therefore, it would be very difficult for him to travel from Tiruttani to Hosur for attending the court hearing, if the Transfer CMP is allowed.

5. Today, when the matter was called, there was no representation on behalf of the respondent. However, I find some merit in the averments of the respondent husband in the counter affidavit. Though this Court normally used to entertain the Transfer CMP. in favour of the wife, considering the peculiar circumstance in the present case that the respondent husband is a physically challenged person and cannot travel without the help of others to long distance and also taking into consideration of the fact that his father is also a physically challenged person aged about 76 years and his mother is aged about 70 years and his eldest son is also with him and the respondent husband is duty bound to take care of all the three persons, is inclined to transfer the HMOP.No.52/2020 pending on the file of the learned Subordinate Judge, Hosur filed by the petitioner wife seeking restitution of conjugal rights to the file of the learned Subordinate Judge, Tiruttani to be tried along with HMOP.No.70/2019 filed by the respondent husband. However, this Court hereby directs the Subordinate Judge, Tiruttani to provide the benefit of Video Conferencing to the petitioner wife to participate in the chief examination, cross-examination and arguments of the Counsel. The parties are also

directed to file the list of witnesses so that the matter can be taken and disposed of at the earliest.

6. With the above observation and direction, the Transfer Civil Miscellaneous Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge, Tiruttani.

2. The Subordinate Judge, Hosur.

+1cc to M/S D.Ramesh Kumar, Advocate Sr.38972

Tr. C.M.P. No.475/2020

NL(CO)
RVR 19/12/2020



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