

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.479 of 2020

Bhuvaneshwari @ Puvaneshwari
W/o Mohan

..Petitioner

-vs-

Mohan
S/o late Krishnan

..Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.56 of 2020 pending on the file of Subordinate Court, Rasipuram and transfer the same to Family Court, Erode by appreciating the above said facts and circumstances of the case.

For Petitioner :: Ms.R.Shase

ORDER

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

2. The petitioner, Mrs.Bhuvaneshwari @ Puvaneshwari, Wife of Mr.Mohan, the respondent herein has come to this Court seeking an order for withdrawal and transfer of the H.M.O.P.No.56 of 2020 filed by the respondent/husband under Section 9 of the Hindu Marriage Act seeking for restitution of conjugal rights from the file of the Sub Court, Rasipuram to the file of the Family Court, Erode.

3. Ms.R.Shase, learned counsel appearing for the petitioner submitted that after the solemnization of marriage between the parties on 17.11.2004 at Saraswathi Mahal in Erode, as per the Hindu rites and customs, they were blessed with a female child Tharunika and a male child Senthamizan. Later on, the respondent became addicted to alcohol and used to cause physical and mental cruelty on the petitioner. Due to such atrocious activities, as the petitioner has been subjected to physical injuries and at one point of time, she also suffered fracture in her chin bone, she was hospitalized in Ganga Hospital, Coimbatore and thereafter, she has gone to her parental home at Bharathi Nagar, Moolapalayam, Erode with her children. One fine day, the respondent came to the petitioner's home to see the children

with the knowledge of the petitioner saying that his mother wanted to see the children. But, thereafter, he has refused to part with the children. Subsequently, he has also filed the H.M.O.P.No.56 of 2020 before the Sub Court, Rasipuram under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights. However, the petitioner is not ready for re-union, because of the physical and mental cruelties caused by the respondent. Since the entire State and the country are in lockdown, it will be difficult for the petitioner to undertake a long journey from her native town in Moolapalayam, Erode to Rasipuram. Therefore, if the H.M.O.P.No.56 of 2020 is withdrawn from the Sub Court, Rasipuram and transferred to the Family Court, Erode, it will be convenient for the petitioner to contest the case.

4. When Ms.R.Shase, learned counsel appearing for the petitioner has stated that her client is not ready for re-union now, as she has been subjected to physical and mental cruelties, no purpose would be served if the H.M.O.P.No.56 of 2020 filed by the respondent seeking restitution of conjugal rights is transferred from the Sub Court, Rasipuram to the Family Court, Erode, as this will be gross wastage of the valuable and precious time of the Court. Therefore, this Court, while rejecting the prayer for transfer, hereby directs the learned Subordinate Judge, Rasipuram to consider the request of the petitioner for participating in the proceedings through video conferencing, as the H.M.O.P.No.56 of 2020 is only to be disposed of following summary trial. However, it is made clear that if the petitioner changing her mindset at a later point of time, wishes to re-join the respondent, the observation made hereinabove would not come in the way of the parties going for re-union. With this observation, the transfer civil miscellaneous petition stands dismissed. Consequently, C.M.P.No.11776 of 2020 is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge
Rasipuram

+lcc to Mr.M.Gurprasad, Advocate, S.R.No.34592

Tr.C.M.P.No.479 of 2020

MP (CO)

RV(19/11/2020)