

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.501 of 2020

C.S.Revathi

.. Petitioner/Respondent

Versus

A.Aravinthkumar

.. Respondent/Petitioner

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw the proceedings pending in H.M.O.P.No.40 of 2020 from the file of learned Sub-Court, Thuraiyur, and to transfer the same to the file of learned Family Court, Namakkal.

For Petitioner : Mr.Premkumar
for Mr.R.Anbukarasu

For Respondent : Mrs.S.R.Sumathi

O R D E R

Heard the parties through Video Conferencing due to COVID-19 pandemic.

2. Mrs.C.S.Revathi, wife of Mr.A.Aravinthkumar/respondent herein, has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.40 of 2020 from the file of learned Sub-Court, Thuraiyur, to the file of learned Family Court, Namakkal. The above said HMOP was filed by the respondent/husband seeking for restitution of conjugal rights.

3. Learned counsel for the petitioner/wife submitted that the marriage between the petitioner/wife and the respondent/husband was solemnized on 02.03.2017 at Arulmighu Thanthoneeswarar Swamy Temple, Vallipuram, in the presence of well wishers belonging to both family. The respondent/husband is working in TCS located in Sirusery, Chennai, and after the marriage, both the petitioner and the respondent were residing at Arihant Frangipani, Pudupakkam. Out of the said wedlock, they were blessed with a female child. However, now, due to the difference of opinion between them, the petitioner/wife is residing along with parents at Uthiragadikaval, Sendamangalam Taluk, Namakkal District, which is far away from Thuraiyur, where the respondent/husband has filed H.M.O.P.No.40 of 2020 seeking for restitution of conjugal rights.

4. By referring to Section 19 of the Hindu Marriage Act, learned counsel for the petitioner/wife submitted that every petition under this Act shall be presented to the District Court within the local limits of whose ordinary original civil jurisdiction the marriage was solemnized. In the present case, the marriage was solemnized at Vallipuram, Namakkal District, and therefore, only the learned Family Court, Namakkal, has jurisdiction to try the case. Hence, the present HMOP filed by the respondent/husband on the file of learned Sub-Court, Thuraiyur, is not maintainable. He further submitted that the petitioner/wife is residing at Uthiragadikaval, Namakkal District, along with her 2 years old female child and therefore, it will be difficult for her to undertake a long journey of more than 60 kms. from the Namakkal to Thuraiyur to attend each and every hearing, hence, the case filed by the husband may be transferred to the file of learned Family Court, Namakkal, he pleaded.

5. Learned counsel for the respondent/husband submitted that the husband was attacked by the petitioner's family and therefore, if the case is transferred to Namakkal, then he will be facing life threat. She further submitted that the respondent/husband has filed the above said HMOP only seeking for restitution of conjugal rights, therefore, nothing precludes the petitioner/wife to come and live along with her husband.

6. However, by taking note of the fact that husband has not adduced any evidence to the effect that he was attacked by the petitioner's family members, and also taking note of the fact that the petitioner/wife is residing along with her 2 years old female child, and considering the balance of convenience in favour of the petitioner/wife, this Court is inclined to transfer the above said HMOP. Accordingly, H.M.O.P.No.40 of 2020 filed by the husband is withdrawn from the file of learned Subordinate Court, Thuraiyur, consequently, transferred to the file of learned Family Court, Namakkal. On such transfer, learned Family Court, Namakkal, shall dispose of the same in the manner known to law as expeditiously as possible. Needless to state that before taking up this matter for hearing, learned Family Court, Namakkal, shall refer this matter before the Mediation Centre, Namakkal, for amicable settlement.

7. With the above directions, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.12562 of 2020 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

To

1. Sub-Court, Thuraiyur.

2. Family Court, Namakkal.

+1cc to M/s.S.Senthil, Advocate, S.R.No.1 dated:04.01.2021

Tr.C.M.P.No.501 of 2020

ad(CO)

rv(08/01/2021)



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