

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.537 of 2020
and C.M.P. No.14294 of 2020

M.Ramadoss

...Petitioner

-vs-

G.Jennie

...Respondent

Prayer: Petition filed under Section 24 of C.P.C to withdraw HMOP.No.152/2020 on the file of the Family Court, Mannargudi and to transfer the same to the Family Court, Thanjavur or a Family Court in any other Neighbouring District other than Thiruvavur.

For Petitioner : Mr.P.Sesubalan Raja
For Respondent : No appearance

O R D E R

The Transfer C.M.P. has been filed seeking to withdraw HMOP.No.152/2020 on the file of the Family Court, Mannargudi and to transfer the same to the Family Court, Thanjavur or a Family Court in any other Neighbouring District other than Thiruvavur.

2. The matter is listed today under the caption, 'for admission'.

3. Learned Counsel for the petitioner submitted that after solemnization of the marriage on 13.06.2019 at Mannargudi as per the Hindu rites and customs, the respondent-wife and the petitioner-husband were living together. However, due to difference of opinion, there arose a huge domestic fight between them, as a result, the respondent wife left for her parental home at Mannargudi, leaving the matrimonial home. While so, the petitioner husband filed HMOP.No.44/2020 before the learned

Principal Subordinate Judge, Tiruchirappalli seeking divorce under Section 12(1)(a) of the Hindu Marriage Act to declare the marriage which took place between them as null and void for the reason that there was non-consummation of the marriage. Moreover the, respondent also deserted the petitioner and took back all her jewels and things and thereafter, preferred a false complaint dated 28.01.2020 against the petitioner and his parents before the Welfare Officer, Social Welfare Department, Thiruvarur. The petitioner and his family members were also received summons from the District Welfare Officer, Thiruvarur, asking their appearance on 25.02.2020. That apart, the respondent wife has also filed HMOP.No.152/2020 before the Family Court, Mannargudi seeking restitution of conjugal rights. In the meanwhile, the petitioner has moved for anticipatory bail and an order in Crl.O.P.No.4791/2020 dated 02.03.2020 has also been obtained from this Court. Therefore, it is not safe on the part of the petitioner-husband and his family members to appear before the Family Court, Mannargudi. Moreover, the father of the respondent is a politically influential person, therefore, it is very difficult for the petitioner husband to appear before the Family Court, Mannargudi every now and then to attend the hearing and to conduct the case. Hence, the petitioner has been advised to approach this court by filing the present Transfer CMP.

4. At the outset, this Court is unable to find any merit on the submissions of the learned Counsel for the petitioner. The reason being that firstly, Section 19 of the Hindu Marriage Act, 1995 contemplates as follows:

"19. Court to which petition shall be presented - Every petition under this Act shall be presented to the District Court within the local limits of whose ordinary original jurisdiction-

(i) the marriage was solemnized, or
(ii) the respondent, at the time of the presentation of the petition, resides, or
(iii) the parties to the marriage last resided together, or

[(iii-a) in case the wife of the petitioner, where she is residing on the date of presentation of the petition, or]

(iv) the petitioner is residing at the time of the presentation of the petition in a case where the respondent, at the time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.]"

While so, in the present case, on the date of presentation of the petition for divorce under Section 12(1)(a) of the Hindu Marriage Act, 1955 by the petitioner husband, the respondent-wife, resided at Mannargudi and therefore, she has filed a petition seeking restitution of conjugal rights before the Family Court, Mannargudi. Secondly, for the sake of argument, if the contention of the learned Counsel for the petitioner that the father of the respondent is a politically influential person is accepted without any proof, it is for the petitioner husband to complain before the police department as and when any problem arises while attending the court hearings at Mannargudi, when the Police Department is very much available in Mannargudi. But without resorting to the said legal process, the petitioner cannot come to this Court and make a vague allegation that due to the influence of the father of the respondent, who is a politically influential person in that locality, the HMOP.No.152/2020 on the file of the Family Court, Mannargudi to be transferred to the Family Court, Thanjavur or a Family Court in any other Neighbouring District other than Thiruvarur. In view of all the above, I find no merit in the Transfer CMP.

5. In the result, the Transfer Civil Miscellaneous Petition fails and the same is accordingly dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Family Court, Mannargudi.

WEB COPY

Tr. C.M.P. No.537/2020

CO(RP)
BDL/18/01/2021