

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.666 of 2019

C.M.P.No.19170 of 2019

E.Elavarasi

..Petitioner

-vs-

M.Vijayachandran

..Respondent

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.54 of 2018 on the file of the Sub Court at Gudiyatham and transfer the same to the Family Court at Vellore.

For Petitioner :: Mr.T.Saravanan

For Respondent :: Mr.K.A.Ravindran

ORDER

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

2. The petitioner, Mrs.E.Elavarasi, Wife of Mr.M.Vijayachandran, the respondent herein has filed this transfer civil miscellaneous petition seeking withdrawal of the H.M.O.P.No.54 of 2018 pending on the file of the Sub Court, Gudiyatham and transfer the same to the Family Court at Vellore.

3. Learned counsel appearing for the petitioner submitted that after the marriage, both the petitioner and the respondent were blessed with a male child, who is now aged about 2 years and 3 months. However, due to domestic problems, both the petitioner and the respondent started to live separately. In view of the above, the petitioner has filed a domestic violence case against the respondent in D.V.O.P.No.20 of 2018 on the file of the learned Judicial Magistrate No.I, Vellore and the same is pending. As a counter blast to the filing of the said domestic violence case, it was pleaded that the respondent has filed H.M.O.P.No.54 of 2018 before the Sub Court at Gudiyatham seeking

dissolution of marriage. Since the petitioner is taking care of the male child aged about 2 years and 3 months and that the respondent also has to come and appear before the learned Judicial Magistrate No.I, Vellore in the case in D.V.O.P.No.20 of 2018, the H.M.O.P.No.54 of 2018 filed by the respondent before the Sub Court, Gudiyatham may be withdrawn and transferred to the Family Court at Vellore.

4. Opposing the above prayer, learned counsel appearing for the respondent submitted that since the respondent is serving in the Electricity Department, it will be difficult for him to take frequent leave from office. But the respondent is prepared to bear the to and fro travel and other incidental expenses for the petitioner whenever she appears for the hearing before the Sub Court at Gudiyatham along with her son. Moreover, as the distance between Vellore and Gudiyatham is only about 35 Kms., there will not be any difficulty for the petitioner.

5. This Court is not inclined to accept the submission made by the learned counsel appearing for the respondent. The reason is that when the respondent himself admits that the distance between Vellore and Gudiyatham is only about 35 Kms., the respondent can very well appear before the Family Court at Vellore and contest the case, as it will be difficult for the petitioner to attend the hearing at Sub Court, Gudiyatham along with her infant son. Therefore, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.54 of 2018 is withdrawn from the file of Sub Court, Gudiyatham and transferred to the Family

Sd/-  
Assistant Registrar(AD I)MDU

//True Copy//

Sub Assistant Registrar

ss

To

1. The Subordinate Judge  
Gudiyatham
2. The Family Court Judge  
Vellore

Tr.C.M.P.No.666 of 2019

SSV(CO)  
KKV/20/08/2020