

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.673 of 2019

Mrs.Latha

.. Petitioner

-vs-

M.Ramalingam

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.278 of 2018 on the file of the Principal Sub Court, Tiruppur and transfer the same to the Family Court at Namakkal.

For Petitioner :: Mr.R.Neelakandan

For Respondent :: Mr.N.Elumalai

ORDER

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

2. The petitioner, Mrs.Latha, Wife of Mr.M.Ramalingam, the respondent herein has come to this Court seeking withdrawal of the H.M.O.P.No.278 of 2018 from the file of the Principal Sub Court, Tiruppur and transfer the same to the Family Court at Namakkal.

3. Learned counsel appearing for the petitioner, in support of the prayer, submitted that after the marriage that was solemnized on 22.5.2015 between the parties, as per the Hindu rites and customs, in the presence of the family members of both sides at Arulmighu Kalyana Subramani Temple, Vaalipalayam in Tiruppur Town, the said marriage was also registered in the office of Registrar of Marriages, Tiruppur on 17.6.2015 and a certificate was also issued to that effect. Thereafter, out of the wedlock, a male child was born on 5.2.2016. Now the child is aged about 4 years and is also studying in a school at Namakkal District. As the distance between Namakkal and Tiruppur is about 120 Kms., it will be very difficult for the petitioner to undertake a long journey along with the male child to contest the case filed by the respondent in H.M.O.P.No.278 of 2018 on the file of the Principal Sub Court, Tiruppur for

restitution of conjugal rights. Therefore, it was pleaded that the petition may be allowed.

4. Opposing the above prayer, learned counsel appearing for the respondent submitted that the respondent is suffering from physical disability and a certificate of physical disability has also been produced to the effect that the respondent has been diagnosed for physical deformity and arthritis. The said certificate also shows that the respondent is not able to walk or run in view of the 50% physical disability. Adding further, learned counsel appearing for the respondent submitted that when the disability certificate clearly shows that the respondent has been diagnosed with 50% disability, it will be very difficult for the respondent to travel 120 Kms., from Tiruppur to Namakkal, if the request of the petitioner is accepted.

5. Since this Court finds from the disability certificate produced by the respondent that the respondent is having 50% disability and that he is unable to walk or run due to the said disability, refusing the prayer of the petitioner for transfer, this Court hereby directs the Principal Subordinate Judge, Tiruppur to take up the H.M.O.P.No.278 of 2018 on priority basis and dispose of the same within a period of six months from the date of receipt of a copy of this order, on merits. With this direction, the transfer civil miscellaneous petition stands dismissed. Consequently, C.M.P.No.19284 of 2019 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

1. The Principal Subordinate Judge
Tiruppur

VGII (CO)
RMP (02/09/2020)

Tr.C.M.P.No.673 of 2019