

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Transfer C.M.P.No.727 of 2019

S.Joyce Mary

...Petitioner

vs.

S.E.Allen Moses

...Respondent

Tr.C.M.P. filed under Section 24 of C.P.C., to withdraw the Divorce Petition in I.D.O.P.No.13 of 2018 from the file of the District Court at Vellore and transfer the same to the Family Court, Chennai.

For Petitioner : Mr.T.Arul

For Respondent : Mr.G.Jeremiah

O R D E R

The Petitioner/wife has come up with this Petition seeking to withdraw the Divorce Petition filed by the Respondent/husband in I.D.O.P.No.13 of 2018 from the file of the District Court, Vellore to the file of the Family Court, Chennai.

2. As the Respondent/husband remained absent for the hearing in I.D.O.P.No.13 of 2018 on 26.10.2018, the said Petition was dismissed for default on the same day. However, by an order dated 05.07.2019 in I.A.No.245 of 2018 filed by the Respondent/husband, I.D.O.P.No.13 of 2018 was restored on file.

3. Learned counsel appearing for the Respondent/husband pointed out that, in the cause title, the Petitioner/wife claims to be residing in Arakonam, whereas, in paragraph 6 of the Affidavit, it is stated that the Petitioner is residing in Chennai. He further submitted that, if the matter is transferred to the Family Court at Chennai, the Respondent, who is working as a Teacher in a Private School at Arakkonam, will have to avail leave on each and every hearing, which will disrupt the education of his students.

4. However, learned counsel appearing for the Respondent submitted that the Respondent/husband has no objection to transfer the matter to any other District Court which can adjudicate Transfer Civil Miscellaneous Petitions, without insisting on the appearance of the parties.

5. At the end of arguments, it is represented by the learned counsel for the Petitioner that, in the meanwhile, the matter can be referred for mediation.

***"6. Taking note of the submissions of the learned counsel for the parties, as the parties are represented by Lawyers, and that their appearance is required only for tendering evidence, the Divorce Petition in I.D.O.P.No.13 of 2018 pending on the file of the District Court at Vellore, is withdrawn and transferred to the Family Court at Thiruvallur. The Family Court, Thiruvallur is expected to conclude the trial in I.D.O.P.No.13 of 2018, as expeditiously as possible, without adjourning the matter beyond 30 working days at any point of time, to bring the issue to a logical end, and shall conduct mediation sessions between the parties, to enable them arrive at a settlement within 30 days from the date of commencement of mediation.**

7. It is made clear that, if the case papers in I.D.O.P.No.13 of 2018 are wrongly transferred from the District Court at Vellore to the Family Court at Chennai, after the disposal of Transfer C.M.P.No.123 of 2019, or still being retained in the District Court at Vellore, the same shall be forwarded to the Family Court at Thiruvallur, for trial."

The Transfer Civil Miscellaneous Petition is disposed of with the above direction and observation. No costs. Consequently, connected C.M.P.No.20485 of 2019 is closed.

Sd/-
Assistant Registrar

*Para 6 & 7 of the order dated 12/01/2020 deleted and Corrected as per order dated 12/02/2020

//True Copy//

Sub Assistant Registrar

(jas/aeb)

To :

1. The District Court, Vellore.
2. The Family Court, Thiruvallur.

Corrected order to be
Substituted to this order

+1cc to M/s.G.Jeremiah, Advocate sr.12079 (25/02/2020)

nrl(co)
nr 14/02/2020

Tr.C.M.P.No.727 of 2019



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