

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.737 of 2019

R.Pavithra

.. Petitioner

Versus

J.B.Karthick

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw H.M.O.P.No.8 of 2018 pending on the file of Subordinate Judge, The Nilgiris, Udhagamandalam, and transfer the same to the file of learned Family Court, Chennai.

For Petitioner : Mr.T.R.Prabhakaran

For Respondent : Mr.S.Venkatesh

O R D E R

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

2. The petitioner/wife has filed this Transfer Civil Miscellaneous Petition seeking to transfer H.M.O.P.No.8 of 2018 from the file of learned Subordinate Judge, The Nilgiris, Udhagamandalam, to the file of learned Family Court, Chennai. The 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 and the respondent was solemnized on 29.06.2014 as per the Hindu Badagar Community Rites and Customs in the presence of the parents, relatives and friends. Out of the said wedlock, they were blessed with a son, aged about 4 years, now attending the School in Chennai. The petitioner/wife is also working at Expleo Solution Limited, Chennai. Therefore, it is difficult for her to travel from Chennai to Nilgiris, which is about 500 kms., to attend each and every hearing at Nilgiris, hence, the matter may be transferred to the file of learned Family Court, Chennai.

4. Learned counsel for the respondent/husband submitted that the petitioner/wife is also a resident of Nilgiris, but, for the purpose of harassing the husband, she has filed the present

transfer petition seeking to transfer the HMOP from Nilgiris to Chennai and therefore, the matter need not be transferred to the file of learned Family Court, Chennai.

5. Refuting the said allegation, learned counsel for the petitioner/wife brought to the notice of the Court paragraph No.3 of the affidavit filed in support of this transfer petition, whereby it is categorically stated that the petitioner/wife is working at Expleo Solution Limited, Chennai, besides, her son, aged about 4 years, is also studying in a School at Chennai. However, the respondent/husband has not filed any counter affidavit denying the said averment.

6. In view of the above, considering the fact that the petitioner/wife is residing and working in a Company at Chennai and that her son, aged about 4 years, is also studying in a School at Chennai, this Court is of the view that it is not feasible for her to travel from Chennai to Nilgiris, which is more than 500 kms., to attend each and every hearing. Therefore, H.M.O.P.No.8 of 2018 filed by the husband is withdrawn from the file of learned Sub-Court, The Nilgiris, Udhagamandalam, consequently, transferred to the file of learned Family Court, Chennai. On such transfer, learned Family Court, Chennai, shall dispose of the same in the manner known to law as expeditiously as possible.

With the above direction, this Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.20689 of 2019 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
1.The Subordinate Judge
the Nilgiris
Udhagamandalam

2.The Presiding Officer
Family Court , Chennai

Tr.C.M.P.No.737 of 2019

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