

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Transfer C.M.P.No.828 of 2019 and

C.M.P. No.22889 of 2019

Sujatha

...Petitioner

vs.

Balaji

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to order withdrawal of HMOP No.256/2018 on the file of Family Court, Puducherry, and transfer the same to any other court, which is suitable and having jurisdiction to try the case in Cuddalore Town.

For Petitioners : Mr.V.Balamurugane
For Respondent : Mr.J.Zeakumar
for Achari & Antoni Associates

O R D E R

This Transfer Civil Miscellaneous Petition has been filed, to withdraw HMOP No.256/2018 pending on the file of Family Court, Puducherry, and transfer the same to any other court, which is suitable and having jurisdiction to try the case in Cuddalore Town.

2. This court is not inclined to grant the relief sought for, as in H.M.O.P. No.256/2018, an ex-parte decree has been granted by the Family Court, Puducherry and that the petitioner herein has filed a petition to set aside the ex-parte decree and restore the HMOP on file, which relief cannot be granted here.

3. The learned counsel appearing for the respondent would submit that, out of the wedlock, the petitioner and the respondent have been blessed with a child and the child is with mother, it is the moral responsibility of the father to pay a monthly maintenance to the child. However, the allegations made in the affidavit are completely false.

4. Without going into the averments made in the affidavit and that taking note of the magnanimous attitude of the husband to pay, without prejudice to the rights of the wife to claim a further maintenance depending upon the earning capacity of the husband/respondent, a sum of Rs.3,000/- shall be paid by the

respondent/father to the child per month and in case any application for maintenance is filed by the wife, the amount ordered by this court, shall be adjusted, if any further enhancement of monthly maintenance is awarded by the court. In case, the HMOP is restored on file, it is open to the petitioner to file a petition seeking transfer of HMOP and the same shall be considered on merits.

4. With the above direction, the The Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Asr

To :

The Family Court, Puducherry.

+1cc to Achari & Antoni Associates, Advocate sr.5613

Tr.C.M.P.No.828 of 2019 and
C.M.P. No.22889 of 2019

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