

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.879 of 2019 and
CMP No.24166 of 2019

Komala @ Priya
W/o Boopathy

.. Petitioner

-vs-

Boopathy
S/o Thukaram

.. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.128 of 2019 on the file of the Sub Court at Tirupattur, Vellore District and transfer the same to the Family Court at Chennai.

For Petitioner :: Mr.J.Milton Arul Rajendran
For Respondent :: Mr.R.Harinath

ORDER

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

2. Mrs.Komala @ Priya, Wife of Mr.Boopathy, the respondent herein has come to this Court seeking withdrawal of the H.M.O.P.No.128 of 2019 from the file of the Sub Court at Tirupattur, Vellore District and transfer the same to the Family Court at Chennai.

3. Learned counsel appearing for the petitioner submitted that after the marriage was solemnized between the petitioner and the respondent on 16.3.2011 at R.M.V Mahal, Singaperumal Koil, Chengalpattu, he married another lady and two children were born to them, but they unfortunately died. In the result, the petitioner came out from the matrimonial home and the respondent is a government servant working in the Electricity department. But suppressing the marriage with the petitioner that was subsisting, the respondent contracted the second marriage. Therefore, the petitioner raised a question about the illegal contract of the second marriage. Immediately the respondent has filed H.M.O.P.No.128 of 2019 on the file of the

Sub Court, Tirupattur, Vellore District for divorce. As the petitioner has to undertake a long journey to Tirupattur, as she is residing in West Mambalam at Chennai, it was pleaded that the matter may be transferred to the Family Court at Chennai, because the distance from Chennai to Tirupattur is 224.8 Kms.

4. Opposing the above prayer, learned counsel appearing for the respondent submitted that the argument advanced by the learned counsel for the petitioner that the respondent concealed the first marriage, is far from acceptance, because only after getting the consent of the petitioner, the second marriage was contracted. Therefore, it is not proper on the part of the petitioner to say that the respondent has contracted the second marriage unlawfully.

5. Be that as it may. When the petitioner is residing in Chennai and also her marriage with the respondent was solemnized on 16.3.2011 and subsequently the respondent has contracted the second marriage, the petitioner is entitled to ask for transfer of the pending H.M.O.P.No.128 of 2019 filed by the respondent for divorce on the file of the Sub Court at Tirupattur, Vellore District. The reason being that the distance between Chennai to Tirupattur is 224.8 Kms., therefore, it would not be safe and comfortable for the poor lady to undertake a long journey. Hence, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.128 of 2019 is withdrawn from the file of the Sub Court at Tirupattur, Vellore District and transferred to the Family Court at Chennai for expeditious disposal on merits. Consequently, C.M.P.No.24166 of 2019 is closed.

Sd/-
Assistant Registrar(CS VIII)

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सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Subordinate Judge
Tirupattur, Vellore District
2. The Family Court Judge
Chennai

Tr.C.M.P.No.879 of 2019

VGII(CO)

RMP(29/09/2020)