

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.07.2020
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.894 of 2019

S.Bowya .. Petitioner/ Respondent

Versus

S.Thirupathy .. Respondent/ Petitioner

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw O.P.No.362 of 2019 pending on the file of learned Family Court, Krishnagiri, and to transfer the same to the file of learned Family Court, Namakkal, to try along with F.C.O.P.No.252 of 2019.

For Petitioner : Mr.R.Prabakar
For Respondent : Mr.A.M.Esakkiappan

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 O.P.No.362 of 2019 from the file of learned Family Court, Krishnagiri, to the file of learned Family Court, Namakkal, to try along with F.C.O.P.No.252 of 2019 filed by the wife. The above said OP was filed by the respondent/husband seeking for divorce.

3. Learned counsel for the petitioner/wife submitted that the marriage between the petitioner and the respondent was solemnized on 26.06.2015 at Tirumala Tirupathi Devasdanam, Andrapradesh, as per the Hindu Rites and Customs. Out of the said wedlock, they were blessed with a male child on 30.05.2016. After the child was born, the respondent/husband started harassing the petitioner/wife asking additional dowry, besides, he is also addicted to alcohol. Therefore, such an attitude of the husband forced her to leave the matrimonial home with child on 20.09.2017. After some time, the respondent/husband has filed O.P.No.362 of 2019 before the learned Family Court, Krishnagiri, seeking for divorce. However, considering the plight of child, the petitioner/wife has filed F.C.O.P.No.252 of 2019 before the learned Family Court, Namakkal, for restitution of conjugal rights, besides, she has filed a maintenance case in M.C.No.56 of 2019 before the learned Family Court, Namakkal. It is further submitted that the petitioner/wife is having 4 years old male child with

her and therefore, it is not feasible for her to travel from Namakkal to Krishnagiri, which is about 180 kms., to attend each and every hearing and hence, O.P.No.362 of 2019 filed by the husband before the learned Family Court, Krishnagiri, may be transferred to the file of learned Family Court, Namakkal, to try along with the above said two cases filed by the wife.

4. Learned counsel for the respondent/husband submitted that only as a counter blast and for the purpose of showing her intention to live with husband, the petitioner/wife has filed F.C.O.P.No.252 of 2019 seeking for restitution of conjugal rights and therefore, the matter need not be transferred to the learned Family Court, Namakkal.

5. This Court is not inclined to accept the above said submission of the respondent/husband. Admittedly, the petitioner/wife has filed two cases; one in F.C.O.P.No.252 of 2019 seeking for restitution of conjugal rights; and second in M.C.No.56 of 2019 seeking for maintenance and these two cases are now pending before the learned Family Court, Namakkal. Besides, the petitioner is having a male child, aged about 4 years now, and therefore, it is not feasible for her to travel from Namakkal to Krishnagiri, which is about 180 kms., to attend each and every hearing. Therefore, for the balance of convenience, O.P.No.362 of 2019 filed by the husband is withdrawn from the file of learned Family Court, Krishnagiri, consequently, transferred to the file of learned Family Court, Namakkal, to be tried along with F.C.O.P.No.252 of 2019 and M.C.No.56 of 2019 filed by the wife. On such transfer, learned Family Court, Namakkal, shall dispose of all these three cases together 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.24503 of 2019 is closed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge, Family Court, Krishnagiri.
2. The Judge, Family Court, Namakkal.

Tr.C.M.P.No.894 of 2019

A.SK(04/08/2020)