

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

TR.C.M.P.NO.936 OF 2019

Mrs.Mallika
W/o A.Subbaiah

..Petitioner

-vs-

A.Subbaiah

..Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.104 of 2019 on the file of the Family Court, Sivaganga and transfer the same to the Additional Family Court, Coimbatore.

For Petitioner :: Mr.S.Saravanan

For Respondent :: Ms.Jayakrithikafor Mr.V.Anandhamoorthy

ORDER

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

2. The petitioner, Mrs.Mallika, after marrying Mr.A.Subbaiah, the respondent herein on 1.9.82 at Madhavarampatti Village, Tirupathur Taluk, Sivaganga, as per the Hindu rites and customs in the presence of the well wishers belonging to both the families, came with the respondent to Coimbatore, where the respondent was doing tender coconut and milk business. Since the respondent also purchased a house in Coimbatore, they started living together in Coimbatore. Out of the wedlock, they were also blessed with one son and one daughter, namely, S.Senthil and S.Chitra respectively. After their son and daughter completed their studies in Coimbatore, they arranged for their marriage and through them, they have got grandchildren also. After 37 years of marriage, the respondent developed extramarital affair with one lady and has started living in Sivaganga. Staying away from the petitioner, the respondent has now filed H.M.O.P.No.104 of 2019 before the Family Court, Sivaganga seeking divorce with false and fabricated allegations against the petitioner. In the

meanwhile, the petitioner also filed M.C.No.194 of 2019 seeking maintenance and H.M.O.P.No.1576 of 2019 seeking restitution of conjugal rights before the Additional Family Court at Coimbatore and the said cases are pending. In addition thereto, the petitioner is also a heart patient. Therefore, when the petitions for maintenance and restitution of conjugal rights are pending on the file of the Additional Family Court, Coimbatore, the H.M.O.P.No.104 of 2019 filed by the respondent for divorce on the file of the Family Court, Sivaganga needs to be transferred to the Additional Family Court, Coimbatore for common disposal.

3. Admittedly, after 37 years after the marriage between the parties, the respondent went back to Sivaganga from Coimbatore and started living there. In addition thereto, the respondent also filed a petition for divorce in H.M.O.P.No.104 of 2019 before the Family Court at Sivaganga. Since the petitioner has also filed M.C.No.194 of 2019 seeking maintenance and H.M.O.P.No.1576 of 2019 for restitution of conjugal rights, which are pending on the file of the Additional Family Court at Coimbatore, agreeing with the balance of convenience going in favour of the petitioner, who is also a heart patient, the transfer civil miscellaneous petition stands allowed and the H.M.O.P.No.104 of 2019 is withdrawn from the Family Court, Sivaganga and transferred to the Additional Family Court at Coimbatore for an expeditious disposal on merits. Consequently, C.M.P.No.25634 of 2019 is closed.

Sd/-

Assistant Registrar(AD I)MDU

//True Copy//

Sub Assistant Registrar

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To

1. The Family Court Judge
Sivaganga
2. The Additional Family Court Judge
Coimbatore

Tr.C.M.P.No.936 of 2019

KS (CO)
KKV/16/09/2020