

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.921 of 2019

Syed Arshiya Fathima

.. Petitioner

Versus

A.K.Ansarudeen

.. Respondent

Prayer: Petition has been filed under Section 24 of the Civil Procedure Code praying to withdraw O.S.No.1 of 2019 pending on the file of learned Family Court, Udhagamandalam (Ooty), and transfer the same to the file of learned Family Court, Vellore.

For Petitioner : Mr.W.M.Abdul Majeed

For Respondent : No Appearance

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.S.No.1 of 2019 from the file of learned Family Court, Udhagamandalam (Ooty), to the file of learned Family Court, Vellore. The said suit 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 06.02.2011 at Mohammadiya Shadi Mahal, Ooty, as per Islamic Rites and Customs. After the marriage, they were blessed with two children and they are now aged about 7 years and 3 years respectively. However, after the birth of children, the matrimonial relationship of the husband and wife got strained and after some time, the petitioner/wife has filed O.P.No.254 of 2019 seeking for dissolution of marriage, which is now pending before the learned Family Court, Vellore. Therefore, only as a counter blast, the respondent/husband has filed O.S.No.1 of 2019 before the learned Family Court,

Udhagamandalam (Ooty), seeking for restitution of conjugal rights. It is further submitted that the petitioner is residing now with her parents at Vellore along with her two children, aged about 7 years and 3 years respectively, and therefore, it is difficult for her to undertake long journey from Vellore to Ooty, which is more than 400 kms., to attend each and every hearing, hence, the case filed by the husband in O.S.No.1 of 2019 seeking restitution of conjugal rights may be transferred to the file of learned Family Court, Vellore, to try along with the case filed by the wife in O.P.No.254 of 2019.

4. Considering the fact that the petitioner/wife is taking care of her two children, aged about 7 years and 3 years respectively, and the fact that the case filed by the wife in O.P.No.254 of 2019 seeking dissolution of marriage is pending before the learned Family Court, Vellore, this Court is of the view that it is not feasible for her to undertake long journey from Vellore to Ooty, which is more than 400 kms., to attend each and every hearing. Therefore, for the balance of convenience, O.S.No.1 of 2019 filed by the husband is withdrawn from the file of learned Family Court, Udhagamandalam (Ooty), consequently, transferred to the file of learned Family Court, Vellore, to be tried along with the case filed by the wife in O.P.No.254 of 2019. On such transfer, learned Family Court, Vellore, shall dispose of both the cases together in the manner known to law as expeditiously as possible. With this direction, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected CMP.No.25126 of 2019 is closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

- 1.The Judge, Family Court, Udhagamandalam (Ooty).
- 2.The Judge, Family Court, Vellore.

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VGII (CO)
SP(04/08/2020)