

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.1025 of 2019

S.Umadevi

... Petitioner

-vs-

Dr.M.Saravanan

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, to withdraw the H.M.O.P.No.48 of 2019 on the file of the learned Subordinate Judge, Vaniyambadi and transfer the same to the file of the learned Subordinate Judge, Poonamallee.

For Petitioner :: Ms.Revathy for Mr.R.Nalliyappan

For Respondent :: Ms.D.Kamachi

ORDER

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

2. Mrs.S.Umadevi, the petitioner, Wife of Dr.M.Saravanan, the respondent herein has filed this transfer civil miscellaneous petition seeking an order to withdraw the H.M.O.P.No.48 of 2019 from the file of the learned Subordinate Judge, Vaniyambadi and transfer the same to the file of the learned Subordinate Judge, Poonamallee.

3. Ms.Revathy, learned counsel appearing for the petitioner pleaded that after the solemnization of marriage on 25.4.2016, the couple were not able to lead a peaceful marital life. The reason being that the petitioner has been working as Scientist in the CVRDE (DRDO, Ministry of Defence), Avadi and although the respondent informed the petitioner and her family members that he was a MD Cardiologist and working at a reputed hospital in Chennai and also having a private clinic, it was not so, as, after the marriage only, the petitioner came to know that the respondent has completed the medical course at Russia and has not even passed the eligibility test conducted by the Medical

Council of India to perform his medical practice in India. Therefore, the respondent demanded huge money from the petitioner to establish a private clinic at Chennai. Since the petitioner was unable to satisfy the demand made by the respondent, she was harassed by the respondent. Thereafter, the respondent has also filed the H.M.O.P.No.48 of 2019 on the file of the Sub Court, Vaniyambadi under Section 13(1)(ia)(ib) of the Hindu Marriage Act seeking divorce with false allegations. Ms.Revathy, learned counsel also stated that due to the consumption of overdose of medicines by the petitioner for her mental depression, she has been paralysed and is unable to walk on her own. This fact is also known to the respondent. When the petitioner is immobile, she would not be able to contest the case before the Sub Court at Vaniyambadi. Therefore, she has been advised to file this petition seeking withdrawal of the H.M.O.P.No.48 of 2019 filed by the respondent for divorce from the file of the Sub Court, Vaniyambadi to the file of the Sub Court, Poonamallee.

4. Opposing the above prayer, a counter affidavit has been filed by the respondent denying the alleged demand said to have been made by him. It has been further averred that since the petitioner also stated that she was the daughter of a widowed mother with two sisters in her family, after losing her father in an accident, and that there was no male member support to make arrangements for the marriage, the respondent and his family members consoled and asked them to perform the marriage in a simple manner. Therefore, the allegation of demand attributed on the part of the respondent is far from acceptance. Adding further, Ms.D.Kamachi, learned counsel appearing for the respondent stated that the respondent, after completing his medical degree in Russia, had the marriage performed. At the time of marriage also, he was working in a private hospital at Chennai. The petitioner was fully aware of his qualification and practice. Therefore, she cannot say that the qualification of the respondent was misrepresented to entice the petitioner and her family members to perform the marriage with the respondent.

5. Continuing further, she stated that after the marriage was celebrated on 25.4.2016, within three months, the petitioner attempted to commit suicide and after some sequence of events that had happened, they were separated. Since the petitioner being a highly qualified person working in the CVRDE (DRDO, Ministry of Defence), Avadi as a Scientist, equally the respondent is also a well qualified doctor working in Vaniyambadi. Therefore, finding that the petitioner is not coming forward to have a smooth matrimonial life, the respondent

has filed the H.M.O.P.No.48 of 2019 before the Sub Court, Vaniyambadi praying for dissolution of marriage on the ground of cruelty and desertion on 3.6.2019. The petitioner did not take efforts either to appear or to file counter affidavit before the Court below. But all of a sudden, she came up with the present petition seeking transfer of the case with false and untenable allegations. Despite the above turn of events, the respondent came to know that the petitioner was very pious and all the time offering prayers and interested only in leading a religious life. But her mother and younger sister only had forced her to go for the marriage. This could be noticed within three months from the date of marriage, because she was not showing any interest in the matrimonial life. Finally, she also consumed overdose of medicines for her depression and even attempted to commit suicide on 7.8.2016. When the respondent saw the petitioner in a different condition, she was taken to Sri Ramachandra Medical Hospital, Chennai and the best treatment was also given to her by spending huge money. The family members of the petitioner also came to know that the petitioner used to take regular medicines for her mental depression even before the marriage. Thereafter also, when the respondent filed the petition for divorce and after this transfer petition was filed by the petitioner, this Court, taking note of the condition of the petitioner, ordered the parties to resolve the issue through mediation and accordingly, counselling sessions were conducted on many occasions. Although the petitioner appeared in person before the mediator only once, with the permission of the mediator, the consecutive sessions were held over phone. In one such counselling, the petitioner, talking through phone from her residence, also made it clear that she is not at all interested in reunion. Therefore, when the petitioner is admittedly paralysed due to the consumption of overdose of medicines for the mental depression and in view of the present Covid-19 pandemic situation, the virtual Court proceedings having been in place, the petitioner, sitting at home, can very well take part in the case proceedings pending before the Sub Court, Vaniyambadi. Hence, the question of transferring the matter from the Sub Court, Vaniyambadi to the Sub Court, Poonamallee is also not advisable. The reason being that even if the matter is transferred to the Sub Court, Poonamallee, again the petitioner has to face physical hardship and her family members will have to make arrangements for her transport from the residence to the Sub Court, Poonamallee, that would also inconvenience the petitioner to a great extent, as she is paralysed. Therefore, when the present Covid-19 pandemic situation has given rise to the conduct of virtual Court hearings taking place from the Court of Judicial Magistrate till the Apex Court, this virtual hearing through internet can be made use of in fit cases like this, because the petitioner is paralysed. In view of the same, the matter need not be transferred, as, even if the matter is

transferred to the Sub Court, Poonamallee, the petitioner will be facing huge hardship and physical discomfort in view of her disability.

6. This Court also finds merit on the submissions made by the learned counsel appearing for the respondent. The reason being that the Covid-19 pandemic situation has completely changed the citizens lives today. Even the children studying Standards I, II, III etc., are attending their classes through video conferencing that is taking place all over the country. Hence, when the school going children studying Standards I, II, III etc., are pursuing their studies through internet, highly qualified persons like the petitioner and the respondent cannot be cited as a different example. Secondly, the entire Court proceedings all over the country are being conducted virtually for the last four to five months. Therefore, considering the admitted physical disability of the petitioner, who has been paralysed in view of consuming overdose of medicines, this Court is of the view that the transfer of the H.M.O.P.No.48 of 2019 from the file of the Sub Court, Vaniyambadi to the file of the Sub Court, Poonamallee is not going to serve the purpose, because, even before the Sub Court, Poonamallee, the petitioner may not be able to appear comfortably. Hence, in the interest of both parties, more particularly, in the larger interest of the petitioner, she is permitted to make use of the internet facility to participate in the hearing of the case in H.M.O.P.No.48 of 2019 before the Sub Court, Vaniyambadi, in view of her paralytic problem. Accordingly, the transfer civil miscellaneous petition stands disposed of, as mentioned above, rejecting the prayer for transfer. Consequently, C.M.P.No.27391 of 2019 is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

To
The Subordinate Judge,
Vaniyambadi.

+1cc to M/s.D.Kamachi, Advocate Sr.28289

Tr.C.M.P.No.1025 of 2019

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srg 06/10/2020