

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.296 of 2021
and
C.M.P. No.7421 of 2021

A.Subhashini		...	Petitioner
	Vs.		
D.Sivakumar		...	Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.540 of 2021 on the file of Family Court, Coimbatore and transfer the same to the Principal Family Court, Dindugal.

For Petitioner : Mr. J.Kingsly Solomon

For Respondent : No appearance

O R D E R

Despite notice having been issued to the respondent, it is returned with an endorsement ''addressee cannot be located''. However, it is seen that the notice has been addressed to the same address, which was given by the respondent himself in the proceedings initiated by him in H.M.O.P.No.540 of 2021 on the file of the Family Court, Coimbatore.

2. The petitioner is the wife. The marriage between the petitioner and the respondent/husband was solemnized on 23.04.2008 at Dindugal. The petitioner is working as a teacher. Unfortunately, both could not continue living together. At present, the petitioner is residing with her parents. It is stated that the petitioner has got two children out of the wedlock. It is the case of the petitioner that the respondent and his mother harassed the petitioner with an ulterior motive and that she could not continue in the matrimonial home. It is the further case of the petitioner that her mother is affected by cancer and struggling to save her life. The petitioner's mother is under treatment for the past six years and she is taking care of her mother for the past three months in the hospital. The petitioner states that she cannot travel all the time for the matrimonial case, which is pending before the Family Court, Coimbatore. It is further stated that her mother

is at final stage of Cancer and counting her days. It is admitted that the respondent/husband filed a petition for divorce in H.M.O.P.No.540 of 2021 before the Family Court, Coimbatore. Since the petitioner is now residing with her parents in Dindugal, she wants withdrawal of proceedings pending from the Family Court at Coimbatore and to transfer the same to the Principal Family Court, Dindugal mainly to suit her convenience.

3. Having regard to the facts narrated in the affidavit filed in support of this petition, this court is of the view that the petitioner will have a fair opportunity to defend the case only if the matrimonial proceedings in H.M.O.P.No.540 of 2021 are tried before the Principal Judge, Family Court, Dindugal.

4. The respondent has not filed any counter affidavit denying the averments. Since the respondent did not receive any notice in the address and the notice is addressed to the place which was given in the petition filed by him for divorce, this Court has no reason to suspect any foul play in serving the notice to the respondent.

5. In a petition filed by the husband for divorce, the convenience of wife is relevant. Having regard to the facts narrated in the affidavit filed in support of this petition and the fact that the petitioner/wife has to take care of her aged parents in Dindugal apart from her children this court is inclined to allow this petition. Accordingly, the proceedings in H.M.O.P. No.540 of 2021 pending on the file of the Family Court, Coimbatore are hereby withdrawn and transferred to Principal Family Court, Dindugal. In case the petitioner/wife fails to appear for two or more consecutive hearings, the respondent will have an option to seek modification of this order or is at liberty to file a fresh transfer petition before this Court.

6. This Transfer Civil Miscellaneous Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Rrg

Copy To:

1.The Family Court,
Coimbatore.

2.The Principal Family Court,
Dindugal.

+1cc to Mr.J.Kingsly Solomon, Advocate, S.R.No. 34903

Tr. C.M.P. No.296 of 2021

UM(CO)
GN(10/08/2021)