



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.10.2021

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CORAM:

THE HONOURABLE MRS. JUSTICE S. KANNAMMAL

Tr.C.M.P.No.355 of 2021  
and C.M.P.No.8334 of 2021

Priya

...Petitioner

Versus

Seenevasan

...Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer H.M.O.P.No.612 of 2019 pending on the file of the Sub-Court, Tambaram trying the case along with H.M.O.P.No.29 of 2020 pending before the Sub-Court, Nagapattinam.

For Petitioner : Mr. S. N. Subramani  
For Respondent : Mr. T. Ananthasekar

ORDER

[The Case has been heard through video conference]

The present Transfer Civil Miscellaneous Petition is filed to withdraw and transfer H.M.O.P.No.612 of 2019 pending on the file of the Sub-Court, Tambaram and try to the case along with H.M.O.P.No.29 of 2020 pending on the file of the Sub-Court, Nagapattinam.

2.The learned counsel appearing for the petitioner submitted that the petitioner and the respondent are the wife and husband and they were blessed with two male children. After marriage, the respondent started torturing the petitioner and her parents by consuming liquor and scolding them in filthy language and he also suspected the fidelity of the petitioner and he attacked her brutally and thrown her out of the matrimonial home. The learned counsel further submitted that the respondent filed a divorce petition in H.M.O.P.No.612 of 2019 before the Sub-Court, Tambaram and since the petitioner is residing along with her parents at Nagapattinam and there is no source of income for her, she is unable to travel from Nagapattinam to Tambaram to participate in the HMOP proceedings. Hence, the learned counsel is seeking to withdraw and transfer H.M.O.P.No.612 of 2019



pending on the file of the Sub-Court, Tambaram and try to the case along with H.M.O.P.No.29 of 2020 pending on the file of the Sub-Court, Nagapattinam.

3.The learned counsel appearing for the respondent while reiterating the averments made in the counter affidavit filed on behalf of the respondent, submitted that right from the inception of the marriage, the petitioner has been demanding the respondent to set up a separate family and she was addicted to social media and wakes up only at 10.00 a.m., and she never cooks food for his children and respondent's aged mother. He also submitted that the petitioner frequently threatens the respondent that she would commit suicide and also attempted to commit suicide on two occasions and even though the respondent had taken her for treatment since she was suffering from psychological disorder, she has not co-operated and she had left the matrimonial home without any information and she also lodged a police complaint against him. He also further submitted that the respondent has to look after both the children who are studying and also to look after his old age mother, who is 80 years old. In such circumstances, the respondent was constrained to file divorce petition against the petitioner and the respondent is also unable to travel leaving two children and his aged mother to participate in the Court proceedings at Chennai. With these submissions, the learned counsel sought for dismissal of the petition.

4.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials placed on record.

5.It is to be noted that the petitioner has filed H.M.O.P.No.29 of 2020 before the Sub-Court, Nagapattinam, for restitution of conjugal rights after the respondent's petition for divorce before the Sub-Court, Tambaram.

6.Admittedly, there was matrimonial dispute between the parties which prompted the respondent to file HMOP for divorce. It is not in dispute that the respondent is taking care of two school going children and also his aged mother. The petitioner is at present residing along with her parents at Nagapattinam. Though generally in the matter of seeking transfer of cases preference would be given to the women but considering the facts and circumstances wherein the respondent is taking care of his two school going children and also his mother who is aged about 80 years and bed ridden, this Court deems it appropriate to direct the Sub-Court, Tambaram not to insist upon the personal appearance of the petitioner/wife except during the enquiry stage or any day, when her personal appearance is required.



7. With the above observation, this Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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s/d-  
Assistant Registrar (CS IX)

True Copy

Sub-Assistant Registrar

To:

1. The Sub-Judge,  
Tambaram.

2. The Sub-Judge,  
Nagapattinam.

+1 CC to Mr. S.N. Subramani, Advocate sr 53278  
+1 CC to Mr. T. Ananthasekar, Advocate sr 52358.

Tr.C.M.P.No.355 of 2021

CP (CO)  
SP (09/11/2021)