

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

TR.C.M.P.No.516 of 2020

C.M.P.No.13260 of 2020

Dr.J.Jasmine Nirmal

.. Petitioner

vs.

I.Nelson Naveen @ Navin Nelson Antony

.. Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., to withdraw O.P.No.1489 of 2020 pending on the file of the learned IV Additional Family Court Judge, Chennai and transfer the same to the learned District Judge's Court at Udhagamandalam, The Nilgiris.

For Petitioner

: Mr.Thangavadhanabalakrishnan

For Respondent

: Mr.A.K.Sriram
for M/s.A.S.Kailasam and
Associates

O R D E R

The petition for transfer is filed to transfer O.P.No.1489 of 2020 from the learned IV Additional Family Court, Chennai to the learned District Judge's Court at Udhagamandalam, The Nilgiris.

2. The marriage between the petitioner and the respondent was solemnized on 31.08.2017 as per the rites and rituals of Christianity at International Shrine of St.Thomas Basilica, Santhome, Mylapore, Chennai. The petitioner states that the petitioner and the respondent started their matrimonial life happily and on account of misunderstanding, the petitioner was forced to leave the matrimonial home. Several allegations are raised in the present petition and all those allegations are to be adjudicated with reference to the documents and evidence

before the trial Court. As far as the transfer petition is concerned, the petitioner has stated that now she is residing with her parents at Gudalur, Nilgiris District which is around 650 kilometers from Chennai. After leaving matrimonial home, the respondent filed O.P.No.1489 of 2020 for dissolution of marriage and the said petition is pending before the Family Court, Chennai. In paragraph No.13 of the affidavit filed in support of the miscellaneous petition, the petitioner has stated that she was physically assaulted by the respondent and the family members of the respondent has hurt her to the extent of causing dental fracture on one occasion and she is enclosed the proof for the same. The petitioner has stated that her mother is a heart patient and is under treatment, after her open heart surgery. Both her parents are old aged people and now she is residing along with her parents. Under these circumstances, she would not be in a position to travel from Gudalur, Nilgiris District to Chennai in order to defend the petition filed by the respondent before the Family Court, Chennai.

3. The learned counsel for the respondent opposed the contention by stating that the transfer petition is filed in order to harass the respondent. Previously, the petitioner was working at Chennai and during the pandemic period, she left Chennai and now residing along with her parents in Nilgiris District. Further, it is stated that the petitioner is capable of defending her case before the Family Court, Chennai. Thus, the petition is to be dismissed.

4. In reply, the learned counsel for the petitioner has solicited the attention of this Court with reference to the petition filed by the respondent in O.P.No.1489 of 2020, wherein the respondent/husband of the petitioner has repeatedly stating that the petitioner was suffering from psychological issues and the same had not been disclosed to the respondent prior to the marriage. The learned counsel for the petitioner has stated that repeatedly, the respondent has made an allegation that the petitioner is psychologically affected. When such allegations are made, the petitioner has to defend the same. Due to her family circumstances, now she is residing along with her parents and she is not in a position to travel from her native place to Chennai to defend the case effectively.

5. Courts have repeatedly held that in matrimonial issues, place of wife is preferable for conducting the case. In the present case, the petitioner is now residing in Nilgiris District along with her parents. Considering the reasons, this Court is inclined to transfer the case. Accordingly, O.P.No.1489 of 2020 pending on the file of the Learned IV Additional Family

Court, Chennai stands transferred to the Family Court, Udhagamandalam, Nilgiris District and the Transfer Civil Miscellaneous Petition No.516 of 2020 stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

6. The Family Court is requested to dispose the petition as expeditiously as possible by affording opportunity to all the parties. The petitioner and the respondent are directed to co-operate for earlier disposal of the petition and unnecessary adjournments are to be avoided and the intention of the parties for prolongation of the litigation can never be accepted by the Courts.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ssb

To

- 1.The IV Additional Family Court, Chennai
- 2.Family Court, Udhagamandalam, Nilgiris District .

+1CC to Mr. Thanga Vadhana Balakrishnan, Advocate, SR 2221/2021.
+1CC to M/s. A.S. Kailasam and Associates., Advocate, SR 2632/2021

सत्यमेव जयते

TR.C.M.P.No.516 of 2020

SR (CO)
NRA (04/02/2021)

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