



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.13 of 2020

and

C.M.P (MD) No.347 of 2020

WEB COPY

I. Sulthana

... Petitioner/ Defendant

Vs.

J.Ameerkhan

... Respondent/ Plaintiff

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the O.S.No.207 of 2019 from the District Munsif Court, Uthamapalayam, Theni District and Transfer the same to the Principal District Munisif, Poonamallee, Tiruvallur District.

For Petitioner : Mr.R.M.Arun Swaminathan

For Respondent : No Appearance

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the suit in O.S.No.207 of 2019 on the file of the District Munsif Court, Uthamapalayam, Theni District, and Transfer the same to the file of the Principal District Munisif, Poonamallee, Tiruvallur District.

2. It is the case of the petitioner that she is a resident of Porur, Chennai and she was employed in a shop at Porur. The respondent was the co-employee in the shop and since they belong to same religion they got acquaintance and later it developed into love. Fearing opposition from both families the petitioner and the respondent did not inform their families and got married on 07.03.2019 at Akbar Manzil, Kovalam, Kanchipuram District. After marriage the petitioner and the respondent informed to their parents and they started their matrimonial home at Arapakkam Chennai and then shifted to Porur. The petitioner later came to know that the parents of the respondent who were against the marriage had given ill advice to the respondent and that they have asked him to leave the petitioner and return to his native place. On 16.08.2019 the respondent who had gone to the employment did not return back. The petitioner had contacted the friends of the respondents and the mother of the respondent and they have informed the petitioner that they have not seen the respondent. Later the petitioner came to know



that the respondent had left her and had absconded. Since the petitioner was unable to trace him she had given complaint before the SRMC police station on 03.09.2019 and a case of man missing was registered in Crime No.509 of 2019. Since the police were unable to trace the respondent the petitioner had filed HCP No.1879 of 2019 on the file of the Principal Bench and the respondent appeared before the Court and informed that he was not under the illegal custody. The matter was referred to mediation and in the mediation the respondent refused to live with the petitioner. Since the respondent abandoned the petitioner, she was constrained to file MC.No.2 of 2009 on the file of the learned Judicial Magistrate, Poonamallee seeking maintenance. The respondent had appeared before the Court and the maintenance case was allowed on 05.03.2021. The respondent did not pay any maintenance to the petitioner.

3. With the above submissions, the learned counsel for the petitioner would submit that while the petitioner was taking steps for recovery of maintenance, the respondent has filed O.S.No.207 of 2019 on the file of the District Munsif Court, Poonamallee seeking to declare the marriage between the petitioner and the respondent as null and void. The petitioner is now under the care and custody of her parents who are not economically well. The petitioner is also without any employment and till date the respondent has not paid any maintenance. The marriage between the petitioner and the respondent was solemnized at Kanchipuram District and it was registered at Sunnathul Arafa Muslim Jamath Committee (ASSN), Khazi Imam Moulavi Hafil V.Nazeer Ahmed (Qasimi) M.A., Old No.161, New No.198, Angappa Naicken Street, Mannady, Chennai 600 001 and the petitioner and the respondent were living as husband and wife at Porur. The Courts either at Chennai or Poonamallee only will have jurisdiction to try the case. However in order to harass the petitioner and cause hardship to the petitioner the respondent has filed a suit before the District Munsif Court, Uthamapalayam, where there is no jurisdiction at all. The petitioner is put to unnecessary hardship and she has to travel all the way from Chennai to Uthamapalayam to conduct the case and there is nobody to take care of her. He would further submit that the petitioner understands that the respondent is also employed at Chennai and only to cause hardship, the present petition has been filed. Further the petitioner apprehends torture to her life from the relative of the respondent at Uthamapalayam and thereby the present case has been filed seeking to transfer the case on the point of jurisdiction.

4. The learned counsel for the petitioner would thereby seek for transfer of the case in O.S.No.207 of 2019 on the file of the District Munsif Court, Uthamapalayam, Theni District to the file of the Principal District Munsif, Poonamallee, Tiruvallur District.

5. Heard the learned counsel for the petitioner. Despite service of notice and name of the respondent being printed in the service summons, there is no representation for the respondent.



6.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, O.S. No.207 of 2019 is withdrawn from the file of the District Munsif Court, Uthamapalaym, Theni District and transferred to the file of Principal District Munsif Court, Poonamallee, Tiruvallur District, for disposal as per law. The learned District Munsif, Uthamapalaym, is directed to transmit the papers to the file of the Principal District Munsif Court, Poonamallee, forthwith. The learned Principal District Munsif, Poonamallee, is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.

7.In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The District Munsif Court,
Uthamapalayam,
Theni District
- 2.The Principal District Munsif,
Poonamallee,
Tiruvallur District.

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