



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.294 of 2021

WEB COPY

G.Ranipriya

... Petitioner/Respondent

-vs-

M.Anand

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 r/w.151 of the Code of Civil Procedure, to withdraw IDOP No.566 of 2020 on the file of Family Court, Madurai and transfer the same to the file of District Court, Karur.

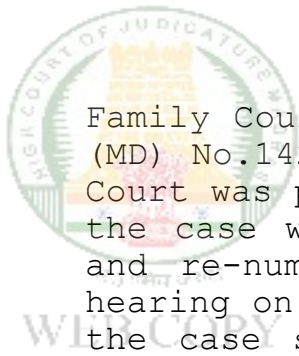
For Petitioner : Mr.K.Govindarajan
for Mr.S.Pon Senthil Kumaran

For Respondent : Mr.K.Samidurai

O R D E R

The present Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Family Court, Madurai in IDOP No.566 of 2020 and transfer the same to the file of the District Court, Karur.

2.The learned counsel for the petitioner would submit that the petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 05.07.2010 at Bethel Church, Arasaradi, Madurai. At the time of marriage the petitioner was adorned with 50 sovereigns of jewels and the respondent was adorned with gold bracelet, Chain and the ring by the father of the petitioner. Out of the wedlock, female child was born to them in the year 2011. Due to indifferent attitude of the respondent and his mother the petitioner was forced to live separately. In spite of different perpetuation by the petitioner, parents and well wishers to make the respondent to lead a happy married life, the respondent and his family members have been firmly avoiding the petitioner and was evading advise of elders. Whiles, the petitioner was diagnosed with cancer during May 2014 and the petitioner had undergone surgery on 28.10.2014. The petitioner and his family members have informed the respondent about the illness but he did not take any steps to take care of the petitioner or the child. The petitioner was temporarily staying at Chennai and was taking treatment post surgery and the respondent did not even bother to meet her or enquire her about her ill health. Whiles, the respondent earlier filed IDOP No.64 of 2016 on the file of the



Family Court, seeking divorce. The petitioner had also filed Tr.CMP (MD) No.142 of 2017 before this Court seeking for transfer and this Court was pleased to allow the same by an order dated 07.04.2017 and the case was transferred to the file of the District Court, Karur and re-numbered as IDOP No.10 of 2017. The case was posted for hearing on 12.07.2018 and on 12.07.2018 the respondent had withdrawn the case stating that the matter has been settled out of Court. Infact there was no settlement out of the court, whereas after informing the Court that the matter has been settled out of the court, the respondent did not care to take care of the petitioner. After keeping quiet for few years the respondent has filed IDOP No.566 of 2020 on the file of the Family Court, Madurai seeking divorce with imaginary and false averments. After having withdrawn the earlier petition for divorce the respondent has filed the present petition for the same relief introducing new cause of action through clever drafting. He would further submit that the petitioner being a cancer survivor and her own daughter are under the custody of the aged parents. The petitioner does not have anybody to accompany her from her home town to kulithalai, Karur District to Madurai. Further she is also continuously taking treatment for cancer and her physical condition also does not permit her to travel a distance of 144 kms for several hearings, thereby the present petition has been filed seeking transfer.

3. The learned counsel for the respondent would submit that well wishers had given some hope that there is a chance of reunion and based on the advice, he had withdrawn the earlier application. The petitioner had waited for two years and since the respondent did not join her he had filed the present application for divorce before the Family Court, Madurai.

4.Heard the learned counsel appearing on either side.

5.The Hon'ble Apex Court in the case of ***Vaishali Shridhar Jagtap.vs. Shridhar Vishwanath Jagtap*** reported in (2016)14 SCC 356 held that ***while deciding the transfer of matrimonial proceedings, comparative hardship faced by the wife has to be taken into account.*** Further, in the case of ***Amitha Shah vs- Virendar Lal Shah***, the Hon'ble Supreme Court reported in (2003)10 SCC 609 held that ***the convenience of the wife and moreso of the child must be taken into account while deciding the petition for transfer.***

6.Considering the facts and circumstances of the case and also considering the submission made by both the counsels, IDOP No.566 of 2020 is withdrawn from the file of Family Court, Madurai and transferred to the file of District Court, Karur for disposal as per law. The Family Court, Madurai, is directed to transmit the papers to the file of the District Court, Karur, forthwith. The District Court, Karur is directed to dispose IDOP No.566 of 2020 on merits and in accordance with law as expeditiously as possible, preferably,



within a period of one year from the date of receipt of a copy of this order.

7.In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sji/aav

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 Family Court, Madurai.

2.The District Court, Karur.

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-27853[F] dated 01/09/2021)

+1 CC to M/s.S.PONSENTHILKUMARAN, Advocate (SR-28094[F] dated 03/09/2021)

Tr.C.M.P. (MD) No.294 of 2021

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