



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

Tr.CMP. No.358 of 2021
and
C.M.P.No.8351 of 2021

P.Divya Barathi ... Petitioner/Respondent
Vs
Sathurappan ... Respondent/Petitioner

PRAYER: Petition filed under Section 24 of the Code of Civil Procedure, to withdraw the case HMOP No.76 of 2020 pending before the Sub Court, Periyakulam and the same be transferred to the Sub Court, Arakkonam, for Joint Trial with the case in HMOP NO.24 of 2021 pending on the file of the Sub Court, Arakkonam.

For Petitioner : Mr.R.Prathap Kumar
For Respondent : Not ready in notice.

ORDER

The petitioner/wife seeks order transferring H.M.O.P.No.76/2020 pending on the file of the Sub Court, Periyakulam to the file of the Sub Court Arakkonam to be tried along with H.M.O.P.No.24/2021.

2. H.M.O.P.No.76/2020 has been filed by the husband on the file of the Sub Court Periyakulam seeking restitution of conjugal rights and H.M.O.P.No.24/2021 has been filed by the wife on the file of the Sub Court Arakkonam seeking to declare a marriage between her and the respondent/husband registered on 02/03/2020 before the Joint Registrar Periyakulam as null and void.

3. The respondent though served privately on 01/07/2021 has however not chosen to appear in person or through counsel.

4. The petitioner's submissions as set out in her affidavit filed in support of the transfer petition as well as in the arguments of her counsel proceeds on the contention that she has been forcefully married to the respondent without her consent. The petitioner would also submit that the respondent



was in the habit of cheating and therefore, she had filed a petition for declaring the marriage null and void in H.M.O.P.No.24/2021, on the file of the Sub Court Arakkonam. The respondent with a view to escaping any proceedings against him has instituted a petition for restitution of conjugal rights in H.M.O.P.No.76/2020 on the file of the Sub Court Periyakulam. The petitioner is a final year student of MBBS and she would find it very difficult to travel to Periyakulam to attend the case. That apart, the respondent and his family members are intimidating her therefore she would seek to have the petition filed by her husband transferred.

6. Considering the fact that H.M.O.P.No.24/2021, which is the comprehensive petition, wherein the petitioner seeks to have the marriage declared null and void is pending before the Sub Court at Arakkonam and since the petitioner is also residing within the jurisdiction of the Sub Court at Arakkonam, interest of Justice requires that the petition filed by the respondent husband for restitution of conjugal right in HMOP No.76/2020 now pending before the Family Court of the Periyakulam be withdrawn and transferred to the file of the Sub Court at Arakkonam to be tried along with HMOP No.24/2021.

7. In view of the above, the Transfer Civil Miscellaneous Petition is allowed and H.M.O.P. No.76 of 2020, pending on the file of the Family Court of the Periyakulam is withdrawn and transferred to the file of the Sub Court at Arakkonam to be tried along with H.M.O.P.No.24/2021. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub Court, Periyakulam.

2.The Sub Court, Arakkonam.

+1cc to Mr.R.Sasikumar, Advocate SR.No.14757

Tr.CMP. No.358 of 2021

and

C.M.P.No.8351 of 2021

SKM(CO)

GN(25/03/2022)