

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM:

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Tr. C.M.P. No.907 of 2021
and
C.M.P. No.20291 of 2021

Uma Mageshwari

... Petitioner

Versus

Harishkumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the H.M.O.P.No.97 of 2021 pending on the file of the Sub-Court, Dharapuram, and transfer the same to the Sub-Court, Tambaram.

For Petitioner : Mr. V.M. Venkataramana

For Respondent : Mr. P. Kalimuthu

ORDER

The present Transfer Civil Miscellaneous Petition is filed to withdraw the H.M.O.P. No.97 of 2021 on the file of the Hon'ble Sub-Court at Dharapuram and transfer the same to the Hon'ble Sub-Court at Tambaram and pass appropriate orders accordingly.

2.The respondent/husband has filed H.M.O.P. No.97 of 2021 before the Sub-Court at Dharapuram, for divorce.

3. The learned counsel for the petitioner would submit that the petitioner is the wife of the respondent. Due to manhandling and physical assaulting on the petitioner, she left the Matrimonial Home. While attempting to pacify the differences between the petitioner and the respondent from the side of the petitioner, they would not be allowed inside the house of the respondent. As the respondent refused to give the educational certificates and Jewels of the petitioner, she made a complaint on 10.01.2021 before All Women Police Station, Dharmapuram in C.S.R. No.12 of 2021. On intervention of the Police, the respondent handed over all the Jewels and certificates of the petitioner. Subsequent to the above, the respondent has filed a divorce petition in HMOP No.97 of 2021

before the Sub-ordinate Court, Dharapuram.

4. It has been further submitted that as the petitioner was not provided any maintenance by the respondent/husband, she is depending on her job. On account of her Job purpose, the petitioner is presently residing at Medavakkam in Chennai. It is difficult to travel alone from Medavakkam, Chennai to Dharapuram which is 432 Kilometres from Medavakkam, Chennai, and proceedings in HMOP No.97 of 2021 on the file of the Sub-Court, Dharapuram is stayed by this Court on 14.12.2021 while it was pending for filing the counter of the petitioner herein. The petitioner being a lady, it is very difficult for her to travel from Medavakkam to Dharapuram for attending the Court on every hearing. Therefore, she seeks to transfer the case from Dharapuram to Tambaram.

5. On the contrary, the learned counsel for the respondent after filing counter would submit that the petitioner never intended to live with the respondent and wants to walk away from him. The main intention of the petitioner is to extract money from the respondent and the petitioner would go to any extent of harming and threatening the respondent with the help of her male friends as she was ready to throw her Thali during matrimonial life. Hence, the respondent is at fear and large posse of her friends. Since the petitioner is earning a handsome salary as an employee in WIPRO company and has very flexible time to work there and further the petitioner's parental home is in Alankium, the petitioner has no difficulties to travel to Dharapuram for monthly once during the Trial. Therefore, the claim of the petitioner to transfer the case to Sub-Court, Tambaram on account of her job location is redundant and completely unnecessary and hence, the petition is liable to be dismissed.

6. Heard both sides and perused the material available on record.

7. It is evident from the records that the respondent is employed at Bangalore. The main objection put forth by the respondent is not the petitioner would go to any extent of harming and threatening the respondent with the help of her male friends. Hence, mere assumption would not be a reason for dismissing this petition.

8. Considering the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner, this Court is inclined to transfer the case to the file of the Sub-Court, Tambaram.

9. Accordingly, H.M.O.P.No.97 of 2021 is withdrawn from the file of the Sub-Court, Dharapuram and transferred to the file of

the Sub-Court, Tambaram, for disposal as per law. The Sub-Court, Dharapuram, is directed to transmit the papers to the file of the Sub-Court, Tambaram, within a period of six weeks from the date of receipt of a copy of this order. The learned Judge, Sub-Court, Tambaram, is directed to dispose of the case in H.M.O.P.No.97 of 2021 on merits and in accordance with law as expeditiously as possible.

10. Accordingly, this Transfer Civil Miscellaneous Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. The Judge, Sub-Court, Dharapuram
2. The Judge, Sub-Court, Tambaram.

Tr. C.M.P. No.907 of 2021
and
C.M.P. No.20291 of 2021

JPL(CO)
SB(28/07/2022)