



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2022

CORAM:

THE HONOURABLE **MS.JUSTICE P.T.ASHA**

Tr.C.M.P. (MD) No.612 of 2021
and
C.M.P. (MD) No.11043 of 2021

Abinaya

... Petitioner

-vs-

V.P.Harish Kumar

... Respondent

Prayer :- Petition filed under Section 24 of Code of Civil Procedure, to withdraw the O.S.No.8 of 2021, pending on the file of the Family Court, Vellore and transfer to the District Munsif Court, Pattukottai, Thanjavur District or to the Family Court, Thanjavur, Thanjavur District.

For Petitioner : Mr.D.R.Murugesan

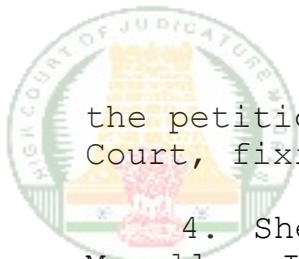
For Respondent : No appearance

ORDER

The notice sent through Court to the respondent, has been returned with an endorsement 'unclaimed'. The return cover would indicate that on two occasions, the postal authorities have intimated the petitioner about the notice, however, he has not claimed the registered letter. The private notice has received by some other person. Therefore, the service is deemed to have been completed on the respondent.

2.The defendant in the suit in O.S.No.8 of 2021 has filed this petition for transferring the suit in O.S.No.8 of 2021, now pending on the file of the Family Court at Vellore to the file of the District Munsif Court, Pattukottai or to the Family Court, Thanjavur. The brief facts are as follows:

3.The respondent has filed the above suit for a declaration that the marriage between him and the petitioner herein had been held on 29.10.2020 at Vellore and that she is his wife. The case of



the petitioner herein is that she has received summons from the said Court, fixing the hearing date on 27.12.2021.

4. She had completed her graduation in engineering from the Mamallan Institute of Technology, Sriperumbudur in the year 2016. It is the case of the petitioner that the respondent herein was her classmate and he had proposed to marry her on several occasions which she had refused. Thereafter, he had forcibly attempted to marry her which attempt also failed. He thereafter filed H.C.P.No.487 of 2021 which was dismissed, imposing cost of Rs.25,000/- on the respondent. A S.L.P.Crl.No.5180 of 2021 was also filed, challenging the said order and the same was dismissed by the Hon'ble Apex Court on 20.07.2021.

5. The petitioner would submit that the claim of marriage is absolutely false and the suit appears to be the last ditch effort of the respondent. The petitioner would submit that the suit has been filed before the Family Court, where her presence on every hearing date, is mandatory and she will not be able to travel alone for the hearing and she would have to take her parents. That apart, she is not having any independent source of income. Further, the suit itself is a vexatious one. She, therefore, sought to have the matter transferred to the District Munsif Court at Pattukottai or to the Family Court, Thanjavur.

6. Heard the learned counsel for the petitioner and perused the records.

7. The petitioner has enclosed a copy of the order in H.C.P.No.487 of 2021 which is an order passed by the Hon'ble Division Bench of this Court. The Bench has held that the respondent has not filed any evidence to prove the marriage that has taken place between the petitioner herein and the respondent. The Bench has observed that no registration certificate of the marriage, has been produced and not even a photograph of the event, has been produced. The Bench, had therefore, dismissed the petition with cost of Rs.25,000/-. The respondent has challenged the said order before the Hon'ble Supreme Court of India, which had also dismissed the S.L.P., filed by him. Thereafter, this suit has been filed.

8. The petitioner has denied the factum of marriage. In these circumstances, it would be a wasteful exercise to make the petitioner to travel all the way to Vellore, to attend every hearing and as rightly pointed out by her that she is unemployed and she is dependent on parents for maintenance both physical support as well as financial. The travel to Vellore would be a drain on her father's savings.

9. The reasons given by the petitioner for seeking transfer, appears to be justified and sufficient and in these circumstances,



the Transfer Civil Miscellaneous Petition is allowed. The suit, now pending on the file of the Family Court, Vellore, is withdrawn and transferred to file by the learned District Munsif, Pattukottai. Consequently, connected miscellaneous petition stands closed. No costs.

WEB COPY

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

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 Judge,
Family Court, Vellore.
- 2.The District Munsif,
Pattukottai.

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and

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Dated: 28.01.2022

MGJ(10.02.2022) 3P 3C