

K.GeethA.. Vs. R.Radhakrishnan..

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Court : Chennai

Decided On : Mar-08-2013

Judge : C.S.Karnan

Appellant : K.GeethA..

Respondent : R.Radhakrishnan..

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

08. 03/2013 CORAM THE HON'BLE MR.JUSTICE C.S.KARNAN TR.CMP(MD) No.225 of 2012 and M.P.(MD)No.1 of 2012 K.Geetha .. Petitioner Vs R.Radhakrishnan .. Respondent This Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C to withdraw the H.M.O.P.No.305 of 2012, on the file of the learned Principle Subordinate Judge, Tiruchirapalli and to transfer the Subordinate Judge, Virudhunagar. !For Appellant ... Mr.A.Mahendra Varma ^For Respondent ... Mr.N.Balakrishnan :ORDER The respondent/husband has filed in H.M.O.P.No.305 of 2012, on the file of the learned Principle Subordinate Judge, Tiruchirapalli, against the petitioner herein/wife for divorce on the ground of desertion and cruelty. Under the circumstances, the wife has filed the above transfer petition and has sought an order of withdrawal of H.M.O.P.No.305 of 2012, from the file of Principle Subordinate Judge, Tiruchirapalli, to the file of the Subordinate Judge, Virudhunagar.

2. The learned counsel for the petitioner submits that the marriage was solemnized between the spouses on 20.08.2010, as per Hindu Customs Rites. At the time of marriage, her parents had given 20 Sovereigns of gold jewellery besides household articles to her husband, as "Sreedhana". Out of wedlock, the petitioner gave birth to a male child on 11.11.2011. Now, the petitioner is looking after her nine month infant child and therefore she is unable to travel from Virudhunagar to Trichy, wherein the divorce case is pending. The learned counsel further submits that no male member is in her family to accompany her in order to go to Trichy to attend the divorce case filed by her husband. Besides this, the distance between Virudhunagar and Trichy is about 200 Kms.

3. The learned counsel for the respondent submits that the marriage was solemnized at Trichy on 20.08.2010, as per Hindu Customs and Rites. Immediately after marriage, both the spouses lived at the matrimonial house at Trichy. The petitioner/wife had become pregnant. As such, there was a function at the matrimonial house on 11.09.2011, as per Hindu Customs. Thereafter, the petitioner had left for delivery to her parent's house. Subsequently, the petitioner did not contact the respondent and had not informed the birth of the child. Under the circumstances, the respondent has filed the divorce petition, since his wife had deserted him.

4. The highly competent counsel further submits that the case is now at the trial stage and the 1st hearing was fixed on 25.07.2012. The petitioner had so far not appeared before the learned Principle Subordinate Judge, Tiruchirapalli.

5. On verifying the factual position of the case and arguments advanced by the highly competent counsels on either side, this Court does not find any valid grounds to allow the transfer petition. This Court is of the view that the marriage was solemnized at Trichy and the petitioner/wife left the matrimonial home after the "Valaikattu" function, for her first delivery to her parents house at Virudhunagar. The original cause of action and the subsequent cause of action arose at Trichy. As such, the original cause of action before the Principle Subordinate Judge, Tiruchirapalli, to try the said case. Hence, this Court declines to allow the transfer petition.

6. In the result, the above transfer petition is dismissed. Consequently, connected miscellaneous petition is closed. ub To 1.The Principle Subordinate Judge, Tiruchirapalli. 1.The Subordinate Judge, Virudhunagar.

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