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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.04.2015
CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.102 of 2014

and

M.P(MD)No.1 of 2014

A.Yasmin

... Petitioner/ Petitioner

Vs.

M.Abdul Rahaman

... Respondent/ Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the O.S.No.166 of 2013 on the file of the District Munsif Court, Thanjavur and transfer the same to the Family Court at Madurai.

For Petitioner : Mr.A.Shajahan

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the O.S.No.166 of 2013 on the file of the District Munsif Court, Thanjavur and transfer the same to the Family Court, Madurai.

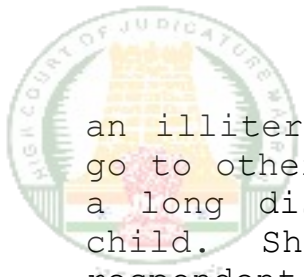
2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 12.11.2009 at S.V.S.V.Subramanian Kalyana Mahal in Madurai in the presence of Jamath. Out of wedlock one male child was born on 17.09.2010. After the marriage, both the petitioner and the respondent were living in Thanjavur. Due to cruelty by the parents of the respondent in the year 2010 she left the matrimonial home with her child and stayed with her parents at Madurai. The respondent sent a Pronounce Talaq notice to the petitioner on 16.04.2013. Immediately, the petitioner sent a reply notice on 23.04.2013 denying of Pronouncement of Talaq.

3.The petitioner filed a suit in O.S.No.9 of 2013 before the Family Court, Madurai for restitution of conjugal rights and also filed a petition under Domestic Violence Act in CrI.M.P.No.1 of 2013 before the Judicial Magistrate No.I, Madurai.

4.The respondent filed O.S.No.166 of 2013 before the District Munsif Court, Thanjavur for declaration of Pronouncement of Talaq is valid.

<https://hcservices.ecourts.gov.in/hcservices/>

5.The petitioner is residing at Madurai with her three years old male child and she is studying only up to 5th standard. She is



an illiterate lady. Without help of the other persons she cannot go to other place. She is finding it very difficult to travel such a long distance from Madurai to Thanjavur along with her male child. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Madurai.

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6. Heard the learned counsel appearing for the petitioner. Though notice was served on the respondent and his name is printed in the cause list he has not chosen to appear either in person or through counsel before this Court.

7. In view of the submissions made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same. In order to avoid conflicting of decisions and interest of justice, the petitioner is prayed for transfer of the suit in O.S.No.166 of 2013 on the file of the District Munsif Court, Thanjavur to the file of Family Court, Madurai to be tried along with O.S.No.9 of 2013. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and O.S.No.166 of 2013 on the file of the District Munsif Court, Thanjavur is hereby withdrawn and transferred to the file of the Family Court, Madurai to be tried along with O.S.No.9 of 2013 filed by the petitioner, if the same is not yet disposed of. The learned District Munsif Court, Thanjavur is directed to send the case bundles to the Court of the Family Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P (MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

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To

1.The District Munsif, Thanjavur.

2.The Family Court, Madurai.

3.The Section officer,

V.R.Section, Madurai Bench of Madras High Court, Madurai.

Tr.C.M.P. (MD)No.102 of 2014

22.04.2015

RG.08.05.2015

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