



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)Nos.132 and 304 of 2014
and
M.P(MD)No.1 of 2014
and
M.P.(MD)Nos.1 & 2 of 2014

Tr.C.M.P. (MD)No.132 of 2014

S.Sathyavathi Thayammal ... Petitioner

Vs.

J.Sakthi Murugan ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No.57 of 2014 from the file of the Subordinate Court, Tuticorin, and transfer the same to the file of the Family Court, Madurai, to be tried the same along with the H.M.O.P.No.770 of 2013, filed by the petitioner.

For Petitioner : Mr.G.Pandiarajan

For Respondent : Mr.R.Alagumani

Tr.C.M.P. (MD)No.304 of 2014

Sakthi Murugan ...Petitioner

Vs.

Sathyavathi Thayammal ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in H.M.O.P.No.770 of 2013 pending on the file of the Family Court, Madurai, and transfer the same to the Sub-Court, Thoothukudi.

For Petitioner : Mr.R.Alagumani

For Respondent : Mr.G.Pandiarajan

C O M M O N O R D E R

In both the Transfer Civil Miscellaneous Petitions, the parties are one and the same and issue involved is one and the same, therefore common order is passed.



2. Both the petitioner and the respondent are made the allegations and counter allegations against each other. From the affidavit filed by the parties, it is seen that the wife has filed H.M.O.P.No.770 of 2013 before the Family Court, Madurai, for divorce. Subsequently, the husband filed H.M.O.P.No.57 of 2014, before the Family Court, Tuticorin, for Restitution of Conjugal Rights. The husband has only stated that the wife's parents are residing at Tirunelveli. He also has not stated as to when he left from Madurai and started living in Tuticorin. In the circumstances, it will be difficult for the wife to travel from Madurai to Tuticorin to attend each and every hearing. It will not be difficult for the husband to travel to Madurai.

3. Heard the learned counsel appearing for the petitioner and the respondent.

4. 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 and to avoid conflicting decisions and in the interest of justice, both H.M.O.P.No.57 of 2014 and H.M.O.P.No.770 of 2013 are to be tried together in the same Court.

5. 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition in Tr.CMP (MD)No.132 of 2014 filed by the wife is allowed and H.M.O.P.No.57 of 2014 on the file of the Subordinate Court, Tuticorin, is hereby withdrawn and transferred to the file of the Family Court, Madurai, to be tried along with H.M.O.P.No.770 of 2013 filed by the petitioner, if the same is not yet disposed of. The learned Subordinate Court, Tuticorin, is directed to send the case bundles to the Family Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. The Transfer Civil Miscellaneous Petition in Tr CMP(MD) No.304 of 2014 filed by the husband is dismissed. No costs. Consequently, M.P(MD)Nos.1,1 & 2 of 2014 are closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Subordinate Judge Court, Tuticorin

2. The Family Court Judge, Madurai

+1cc to Mr.R.ALAGUMANI, Advocate, in SR. No. 27301

+1cc to Mr.G.PANDIAYARAJAN, Advocate, in SR. No. 27126

TS/10.06.2015/2P-5C

Tr.C.M.P. (MD) Nos.132 & 304 of 2014
M.P. (MD) Nos.1,1 & 2 of 2014