



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2015

CORAM:

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

Tr.C.M.P.(MD).No.146 of 2014 and

M.P.(MD).No. 1 of 2014

Gousalya

: Petitioner

Vs.

Jayakumar

: Respondent

Prayer: This Transfer CMP is filed under Section 24 of CPC praying to withdraw the case in HMOP.No.44 of 2014 on the file of the Subordinate Court, Devakottai and transfer the same to the file of the Subordinate Court, Pudukkottai to be tried along with the case in HMOP.No.68 of 2014.

For Petitioner : Mr. D. Rameshkumar

For Respondent : Mr. C. Jayaprakash

O R D E R

The petitioner, who is the respondent in HMOP.No.44 of 2014 filed this petition, to withdraw and transfer HMOP.No.44 of 2014 from the file of Subordinate Court, Devakottai to Subordinate Court, Pudukkottai, to be tried along with HMOP.No.68 of 2014.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 15.05.2008, as per Hindu Rites and Customs. A female child was born in the wedlock. Due to mental and physical torture by the respondent, the petitioner left from matrimonial home, with her minor child. The respondent filed HMOP.No.44 of 2014, before the Sub Court, Devakkottai, for divorce. Thereafter, the petitioner filed HMOP.No.68 of 2014, before the Subordinate Court, Pudukkottai, for restitution of conjugal rights. .

3. Now, the petitioner is staying with her parents at Pudukkottai, along with minor child. The distance between Pudukkottai and Devakkottai is approximately 60 Kilometers and it is very difficult for the petitioner to travel each and every hearing to attend HMOP.NO.44 of 2014, before the Subordinate Court, Devakkottai, along with her minor child. Further, she is not having any independent income. The petitioner is only depending on her parents for her day-to-day expenses, including the travel expenses. In the circumstances, the petitioner has filed the present petition to transfer HMOP.No.44 of 2014, from the file of Subordinate Court, Devakkottai, to Subordinate Court, Pudukkottai to be tried along with HMOP.No.68 of 2014, pending on the file of Subordinate Court, Pudukkottai.

4. The respondent entered appearance through his counsel and he did not file any counter affidavit, even after taking several adjournments. The learned counsel for the respondent contended that it will not be difficult for the petitioner, to attend hearing at Subordinate Court, Devakkottai and he prayed for dismissal of this Transfer C.M.P.



5. Heard the learned counsel appearing for both parties.

6. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. 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.44 of 2014 and HMOP.No.68 of 2014 are to be tried together in the same Court. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.44 of 2014, pending on the file of the Sub Court, Devakottai, is hereby withdrawn and transferred to the file of the Sub Court, Pudukkottai, to be tried along with H.M.O.P.No.68 of 2014 filed by the petitioner, if the same is not yet disposed of. The learned Subordinate Judge, Devakottai is directed to send the case bundles to the Additional Sub Court, Pudukkottai immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Subordinate Judge, Devakkottai
2. The Subordinate Judge, Pudukkottai.

+1cc to Mr.D.Rameshkumar,Advocate SR.No.34259

Tr.C.M.P.(MD).No.146 of 2014 and

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26.06.2015

trp

PA/IV/16.07.2015/2P/4C