



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.04.2015
CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.224 of 2014
and
M.P(MD)No.1 of 2014

Aruna

... Petitioner

Vs.

R.Miller

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the G.W.O.P.No.38 of 2013, on the file of the District Judge, Virudhunagar at Srivilliputhur and transfer the same to the file of Principal Family Court, Chennai or to any other competent Court at Chennai.

For Petitioner : Mr.R.Pon Karthikeyan
For Respondent : Mr.S.Kiruba Vijay Anand

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the G.W.O.P.No.38 of 2013, on the file of the Principal District Judge, Virudhunagar at Srivilliputhur and transfer the same to the file of Principal Family Court, Chennai or to any other competent Court at Chennai.

2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 30.06.1991. In the wedlock, two male children and one female child were born. The respondent used to demand of dowry from petitioner's parents. The respondent was doing business in the name and style of Balaji & Co. He become a debtor and his business went to loss. Due to the loss in the business, the respondent harassed, humiliated and insulted the petitioner. Due to that situation, the children were disturbed. Therefore, the petitioner left the matrimonial home along with three children and residing in Chennai with the help of her brothers and mother. The younger son is doing second year college and daughter is studying 11th standard in Asan Memorial School at Chennai.

3.The respondent filed H.M.O.P.No.13 of 2006 before the Sub Court, Virudhunagar for dissolution of marriage and obtained an ex-parte order. After that, the respondent married one Kanmani as second wife. The petitioner filed M.C.No.160 of 2010 before the I Additional Family Court, Chennai for seeking maintenance from the respondent. The respondent filed Tr.C.M.P.No.371 of 2010 before the Principal Bench of this Court, Madras. This Court transferred the maintenance case filed by the petitioner to the file of Judicial Magistrate NO.I, Virudhunagar which was renumbered as M.C.No.16 of 2010.



4.The respondent neither shown any interest towards the welfare of his children nor too any responsibility for their studies. The respondent filed O.S.No.37 of 2009 before the Sub Court, Virudhunagar against the petitioner, which was dismissed in the year 2013. In M.C.No.160 of 2010 the respondent filed a counter affidavit stating that he has no source of income and he is not in a position to give maintenance to the petitioner. While so, the respondent filed G.W.O.P.No.38 of 2013 before the District Judge, Virudhunagar at Srivilliputhur against the petitioner seeking custody of minor daughter only to harass and humiliate her.

5.The petitioner is residing at Chennai. The daughter is studying 11th standard in Chennai. It is very difficult for the petitioner to go to Srivilliputhur with her minor child, who is studying 11th standard in Chennai for conducting the maintenance case and contest the G.W.O.P., filed by the respondent. No elderly persons are available to look after them in her absence.

6.Now, the petitioner/wife filed this petition to transfer the aforesaid G.W.O.P.No.38 of 2013 filed by the respondent/Husband before the Principal District Judge, Virudhunagar at Srivilliputhur to the Principal Family Court, Chennai.

7.The respondent has entered appearance through counsel and no counter is filed. The learned counsel for the respondent contended that there is no merit in the transfer petition and prayed for dismissal of the petition.

8.Heard the learned counsel for the petitioner and for the respondent.

9.It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference. In this case the minor daughter is studying in Chennai. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

10. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and G.W.O.P.No.38 of 2013 on the file of the Principal District Judge, Virudhunagar at Srivilliputhur is hereby withdrawn and transferred to the file of the Principal Family Court, Chennai, if the same is not yet disposed of. The learned Principal District Judge, Virudhunagar at Srivilliputhur is directed to send the case bundles to the Court of the Principal Family Court, Chennai, 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(Per.Admn)

\\True copy\\



To

1.The Principal District Judge,
Virudhunagar at Srivilliputhur

2.The Judge, Principal Family Court, Chennai

3.The Section Officer, VR section Madurai Bench of Madras High Court
Madurai.

+1cc to MR.R.PONKARTHIKEYAN, ADVOCATE SR.NO.21469

Tr.C.M.P. (MD) No.224 of 2014
23.04.2015

AM

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