



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

M. Subha : Petitioner/Respondent

Vs.

V. Manoharan : Respondent/Petitioner

Prayer: This Transfer CMP is filed under Section 24 of CPC praying to withdraw GWOP.No.87 of 2013 from the file of the District Judge, Thiruchirappalli and transfer the same to the file of III Additional Sub Court, Madurai to be tried along with HMOP No.275 of 2009 filed by the respondent.

For Petitioner : Mr. K. Gokul

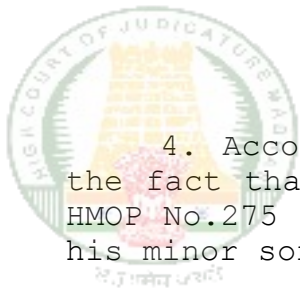
For Respondent : Mr.N. Anandakumar

O R D E R

This Petition is filed to withdraw GWOP.No.87 of 2013 from the file of the District Judge, Thiruchirappalli and transfer the same to the file of III Additional Sub Court, Madurai to be tried along with HMOP No.275 of 2009 filed by the respondent.

2. The petitioner and respondent got married on 26.03.1999 and a male child was born in the wedlock. The respondent / husband made false allegations against the petitioner and tortured her. Hence, she left from matrimonial home and filed HMOP No.175 of 2009 on the file of the Sub Court, Srivilliputur, for restitution of conjugal rights. The said HMOP was decreed ex parte on 02.07.2010. Thereafter, the petitioner went to Madurai and living with her mother, who is a retired Teacher. While so, the respondent filed HMOP.No.275 of 2009, for divorce, on the file of Sub Court, Thiruchirappalli. The petitioner filed M.C.No.23 of 2012 on the file of the Chief Judicial Magistrate, Madurai, for maintenance.

3. The petitioner filed Transfer C.M.P.227 of 2013 to withdraw HMOP.No.275 of 2009 from the file of Sub Court, Thiruchirappalli and transfer the same to Family Court, Madurai. This Court by order dated 27.03.2014, transferred HMOP No.275 of 2009 from the file of Sub Court, Thiruchirappalli to III Additional Sub Court, Madurai. While so, the respondent filed GWOP No.87 of 2013, on the file of the District Judge, Thiruchirappalli to appoint him as guardian to minor son viz., Ajjjhay Manoharan.



4. According to the petitioner, the respondent / husband suppressing the fact that an ex parte decree was passed in HMOP No.175 of 2009, filed HMOP No.275 of 2009 for divorce and GWOP No.87 of 2013 for guardianship of his minor son, to harass the petitioner mentally and physically.

5. Now, the petitioner is residing at Madurai with her minor son and aged parents. The petitioner is not having any independent income and she is not working. When the petitioner went to Thiruchirappalli to attend the hearing of HMOP, the respondent arranged rowdy elements to attack the petitioner. Further, she is residing at Madurai and the distance between Madurai and Thiruchirappalli is about 125 kilometers. Hence, she is finding it very difficult to attend the Court regularly for each and every hearing along with her minor child. The respondent was working as Software Engineer in USA and he is a wealthy person and he is capable to adjudicate the proceedings.

6. The learned counsel for the respondent vehemently opposed to transfer the HMOP stating that the petitioner has made false allegation against the respondent and prayed for dismissal of this petition.

7. Heard the learned counsel appearing for both parties.

8. It is seen from the records that HMOP.NO.275 of 2009 was transferred to III Additional Sub Court, Madurai, as per the order of this Court dated 27.03.2014. Now, the respondent filed GWOP.No.87 of 2013 for appointing him as guardian of his minor son on the file of the District Judge, Trichy.

9. In view of the pendency of HMOP No.275 of 2009 before the III Additional Sub Court, Madurai, GWOP.NO.87 of 2014 pending on the file Family Court, Thiruchirappalli, is ordered to be withdrawn and transferred to the file of the III Additional Sub Court, Madurai, to be tried along with HMOP NO.275 of 2009 on the file of III Additional Sub Court, Madurai. The learned District Judge, Thiruchirappalli is directed to transmit the entire records pertaining to the case in GWOP No.87 of 2013 to the transferee Court, within a week from the date of receipt of a copy of this order. As and when the records relating to GWOP.No.87 of 2013 is received from the District Court, Thiruchirappalli, the learned III Additional Sub Court Judge, Madurai, is directed to dispose of both the Original Petitions on or before 30.09.2015, in accordance with law.

10. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To
1. The District Judge, Thiruchirappalli

2. III Additional Sub Court, Madurai

+1cc to M/S.K.Gokul, Advocate in SR.No 22418

TS/26.06.2015/3P -4C

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