



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31/07/2015

CORAM

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.275 of 2014
and
M.P(MD)No.1 of 2014

Valarmathy ... Petitioner
Vs.

S.Chandrasekar ... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the HMOP No.87 of 2013 and in HMOP NO.102 of 2013 pending on the file of the Learned Subordinate Court, Paramakudi to try in Subordinate Court, Devakottai.

For Petitioner : Mr.D.Panneerselvam

For Respondent : Mr.V.Kannan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the HMOP No.87 of 2013 and in HMOP NO.102 of 2013 pending on the file of the Learned Subordinate Court, Paramakudi to try in Subordinate Court, Devakottai.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 06.09.1995. Due to misunderstanding, both are living separately. The respondent filed H.M.O.P.No.87 of 2013 before the Sub Court, Paramakudi for Restitution of Conjugal Rights. The petitioner filed H.M.O.P.No.102 of 2013, before the Sub Court, Paramakudi for divorce. The petitioner filed the Additional affidavit stating that the petitioner is residing at Madurai and working at Panchayat Union Middle School, Pottapalayam, Tirupuvanam Union, Sivagangai District. The petitioner's daughter is studying 10th standard at Kendra Vidyalaya, Narimedu, Madurai.

3. Now, the petitioner is residing at Madurai along with her parents. According to the petitioner, the distance between Madurai and Paramakudi is 80 kms and it is very difficult for the petitioner to travel each and every hearing to attend both the H.M.O.P.Nos.87 of 2013 and H.M.O.P.No.102 of 2013, on the file of the Sub Court, Paramakudi filed by the petitioner and the respondent. The petitioner is getting only meagre salary and finding it very difficult to meet out the educational expenses for the children and she is unable to spend money for going to Paramakudi to attend the hearing.



4. In such circumstances, the petitioner filed this petition to transfer the aforesaid, HMOP Nos.87 and 102 of 2013, filed by the petitioner and the respondent, before the Sub Court, Paramakudi, to Family Court, Madurai, to be tried together.

5. The respondent entered appearance through counsel. He did not file any counter.

6. Heard the learned counsel appearing for the parties.

7. 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 the present case, the petitioner has given valid reason for transferring both the HMOP filed by the petitioner and the respondent and for hearing the same together in order to avoid conflicting decisions. For the above reasons, the transfer civil miscellaneous appeal is allowed.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.Nos.87 and 102 of 2013, on the file of the Sub Court, Paramakudi, is hereby withdrawn and transferred to the file of the Family Court, Madurai, are to be tried together in the same Court, if the same are not yet disposed of. The learned Sub Judge, Paramakudi, 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. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

/TRUE COPY/

Sub Assistant Registrar

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To

1. The Sub Court, Paramakudi.

2. The Family Court, Madurai

+1CC to Mr.S.M.S.Johny Basha Advocate SR.No.43296

Tr.C.M.P(MD)No.275 of 2014 and

M.P(MD)No.1 of 2014

Dated:31.07.2015

GJM-18.8.2015-2P-4C