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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.06.2015
CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.293 of 2014 and
M.P(MD)Nos.1 and 2 of 2014

M. Sasikala

... Petitioner/Respondent
Vs.

M.K. Murugesan

... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer HMOP.No.3805 of 2013 from the file of the I Additional Family Court, Chennai, to the Sub Court, Thiruchirappalli.

For Petitioner : Mr.S. Subbiah
For Respondent : Mr. B. Vijay Karthikeyan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer HMOP.No.3805 of 2013 from the file of the I Additional Family Court, Chennai, to the Sub Court, Trichy.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 07.05.2000, as per Hindu Rites and Customs. Two children were born in the wedlock. Due to mis-understanding between the petitioner and respondent, the petitioner was sent out from matrimonial home. Now, the petitioner is residing at Trichy with her parents. Both the children were admitted in St. James school at Trichy.

3. The respondent filed HMOP.No.3805 of 2013, before the I Additional Family Court, Chennai, for divorce. The petitioner appeared on the hearings viz., 06.12.2013, 16.02.2014, 21.04.2014 and on subsequent dates of hearings, and it was posted for filing objections by petitioner.

4. Now, the petitioner is staying at Trichy along with her parents. The petitioner filed M.C.No.283 of 2014, before the Family Court, Trichy, for maintenance against the respondent. According to the petitioner, the distance between Trichy and Chennai, is 350 kms and it is very difficult for the petitioner to travel for each and every hearing to attend H.M.O.P.No.3805 of 2013, before the I Additional Family Court, Chennai. The petitioner is depending on her parents for her day-to-day expenses including travel expenses.

5. She further stated that the respondent is appearing before the Family Court, Trichy for attending case in M.C.No.283 of 2014. He is having business at Chennai and he is a physically fit and healthy person to attend the maintenance case and HMOP.No.3805 of 2013, if it is transferred to Principal District Court, Thanjavur.



6. In such circumstances, the petitioner/wife filed this petition to transfer the aforesaid HMOP No.3805 of 2013, filed by the respondent/husband before the I Additional Family Court, Chennai, to the Sub-Court, Trichy.

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7. According to the respondent, the petitioner's father and her family members are influential persons with money and muscle power. After marriage, the petitioner, her father and her family members came to Chennai and threatened the respondent and got his property and transferred the same in the name of the petitioner. The petitioner attended the hearing in Family Court, Chennai. After one year, with an ulterior motive, she filed maintenance case in M.C.No.283 of 2014 before the Family Court, Trichy. The respondent is with fear of his life only, attending the hearing before the Family Court, Trichy. Therefore, he prayed for dismissal of this Transfer Civil Miscellaneous Petition or to transfer HMOP.No.3805 of 2013 filed by him, to Family Court, Madurai, or any other Court in the Southern Districts.

8. Heard the learned counsel appearing for the parties.

9. It is seen from the pleadings that the respondent filed HMOP.No.3805 of 2013, before the I Additional Family Court, Chennai, for divorce. The petitioner attended conciliation proceedings and the various hearing dates. After lapse of time, the petitioner filed M.C.No.283 of 2014, seeking maintenance before the Family Court, Trichy. Now, the petitioner has come out with the present petition, to transfer HMOP.No.3805 of 2013 from the I Additional Family Court, Chennai to Sub Court, Trichy.

10. The respondent has stated that under threat of his life, he is attending the case in M.C.No.283 of 2013, before the Family Court, Trichy and if, HMOP filed by him, is transferred to Sub Court, Trichy, he will not get justice, as the petitioner's family members are influential persons and threatening the respondent with rowdy elements.

11. However, without considering the allegations and counter allegations, I am inclined to transfer both HMOP.No.3805 of 2013 filed by the respondent herein from the file of the I Additional Family Court, Chennai and M.C.No.283 of 2014 filed by the petitioner from the file of Family Court, Trichy to the Principal District Court, Thanjavur.

12. 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.3805 of 2013 and M.C.No.283 of 2014 are to be tried together in the same Court.

13. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of and H.M.O.P.No.3805 of 2013 on the file of the I Additional Family Court, Chennai and M.C.No.283 of 2014 on the file of the learned District Judge, Family Court, Trichy, are hereby withdrawn and transferred to the file of the Principal District Court, Thanjavur. The learned I Additional Family Court Judge, Chennai and the learned Family Court Judge, Trichy, are directed to send the case bundles to the



Principal District Court, Thanjavur, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

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/True copy/

Sub Assistant Registrar

To

1. The I Additional Family Court, Chennai.
2. The Family Court, Trichy.
3. The Principal District Court, Thanjavur.

Copy to:

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

+1cc to Mr.B.Vijay Karthikeyan,Advocate SR.No.28932

+1cc to Mr.S.Subbiah,Advocate SR.No.29951

Tr.C.M.P(MD)No.293 of 2014 and
M.P(MD)Nos.1 and 2 of 2014
09.06.2015

trp

PA/pps/30.06.2015/2P/7C