



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2015

CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P (MD) No.295 of 2014

and

M.P (MD) No.1 of 2014

Sangeetha

... Petitioner

Vs.

R.Santhanam

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in H.M.O.P.No.51 of 2013 on the file of the Sub Court, Neyveli and the same may be transferred to the Additional Sub Court, Kumbakonam and may be tried along with HMOP No.34 of 2013 on the file of the Additional Subordinate Judge, Kumbakonam.

For Petitioner : Mr.V.Achuthan

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.51 of 2013 on the file of the Sub Court, Neyveli and the same may be transferred to the Additional Sub Court, Kumbakonam and may be tried along with HMOP No.34 of 2013 on the file of the Additional Subordinate Court, Kumbakonam.

2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 05.09.2008 as per Hindu Rites and Customs. According to the petitioner, after the marriage, the respondent started to quarrel with the petitioner without any reasons. On 08.07.20012, she gave a complaint to the All Women Police Station against the respondent. After the complaint, the respondent attacked the petitioner more cruelly and sent her from the matrimonial home, on 13.10.2012.

3. The petitioner filed H.M.O.P.No.34 of 2013 before the Additional Subordinate Court, Kumbakonam, for Restitution of Conjugal Rights and filed M.C.No.15 of 2013 before the II Additional District Munsif-cum-Judicial Magistrate Court, Kumbakonam, for maintenance. After receiving notice in both the cases, the respondent filed H.M.O.P.No.51 of 2013, before the Sub Court, Neyveli, for dissolution of marriage. The petitioner has stated that in both HMOP No.34 of 2013 and M.C.No.15 of 2013 filed by her, enquiry has been initiated and both the cases are in the stage of cross examination of P.W.1. The distance between Kumbakonam and Neyveli is about 110 kms and it is very difficult for the petitioner to travel each and every hearing to attend H.M.O.P.No.51 of 2013. The District Judge advised her not to travel long distance. The petitioner is depending on her parents for day to day expenses including travel expenses.



4. Now, the petitioner/wife filed this petition to transfer the aforesaid HMOP No.51 of 2013 filed by the respondent/Husband before the Sub Court, Neyveli, to the Additional Sub Court, Kumbakonam to be tried along with H.M.O.P.No.34 of 2013.

5. Heard the learned counsel appearing for the petitioner. Despite service of notice, the respondent has not chosen to appear either in person or through pleader.

6. 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.51 of 2013 and H.M.O.P.No.34 of 2013 to be tried together in the same Court. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.51 of 2013 on the file of the Sub Court, Neyveli, is hereby withdrawn and transferred to the file of the Additional Sub Court, Kumbakonam, to be tried along with H.M.O.P.No.34 of 2013 filed by the petitioner, if the same is not yet disposed of. The learned Sub Judge, Neyveli, is directed to send the case bundles to the Additional Sub Court, Kumbakonam, 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/

Sub Assistant Registrar

To

1. The Sub Judge,
Neyveli.

2. The Additional Sub Judge,
Kumbakonam.

Copy to:

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

+1cc to V.Achuthan, Advocate SR.No.26646

Tr.C.M.P. (MD)No.295 of 2014
01.06.2015

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