



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2015

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.361 of 2014

and

M.P(MD)No.1 of 2014

Anita Jeyarani

... Petitioner

Vs.

Manavalan Angelo Jude

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in O.S.No.270 of 2013 on the file of the learned Subordinate Judge, Tuticorin and transfer the same, to the file of the Learned Family Court Judge, at Madurai, for trial and disposal in accordance with law along with the pending I.D.O.P.No.420 of 2013.

For Petitioner : Mr.N.Ananthapadmanaban

For Respondent : Mr.S.Malaikani

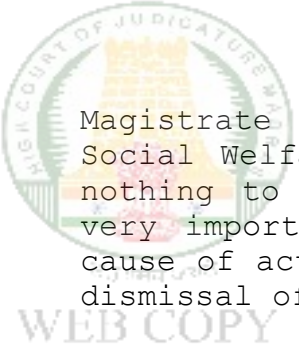
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in O.S.No.270 of 2013 on the file of the learned Subordinate Judge, Tuticorin and transfer the same, to the file of the Learned Family Court Judge, at Madurai, for trial and disposal in accordance with law along with the pending I.D.O.P.No.420 of 2013.

2. According to the petitioner, she has filed a petition for maintenance in M.C.No.100 of 2013 before the Family Court, Madurai and DVOP case in Cr.M.P.No.3631 of 2013 before the Judicial Magistrate for Mahila Cases, Madurai and both the cases are pending. While so, the respondent has filed I.D.O.P.No.420 of 2013 before the Principal District Judge, Tuticorin for divorce. The petitioner filed Tr.C.M.P. before this Court. This Court transferred the I.D.O.P., from the Principal District Judge, Tuticorin to Family Court, Madurai. Subsequently, the respondent filed O.S.No.270 of 2013 before the Subordinate Judge, Tuticorin to declare the respondent/plaintiff is the owner of the schedule property and for injunction.

3. According to the petitioner, the respondent filed the said O.S.No.270 of 2013 only to grab the property purchased by her parents in her name. She will not be in a position to defend the suit if the same is conducted in Tuticorin. She has stated that depending upon her brothers and mother it will be very difficult for her to attend every hearing at Tuticorin with her child. She has to incur heavy expenses.

4. The respondent filed counter affidavit denying various averments made by the petitioner. The respondent stated that the petitioner filed a criminal case before the Judicial Magistrate No.I, Tuticorin in C.C.No.228 of 2013 and she is regularly appearing before the Judicial



Magistrate No.I, Tuticorin and also appearing for enquiry before the Social Welfare Officer, Tuticorin. The suit filed by the respondent has nothing to do with the criminal case. Jurisdiction of Civil Court is very important in entertaining and deciding the issue and there is no cause of action to transfer the suit in O.S.No.270 of 2013 and prayed for dismissal of the Transfer Civil Miscellaneous Petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6. From the counter affidavit, it is seen that the petitioner is regularly attending the hearing in C.C.No.228 of 2013 filed by her before the Judicial Magistrate No.I, Tuticorin and also appearing before the Social Welfare Officer, Tuticorin regularly. Further before the Sub Court, Tuticorin, the petitioner need not appear every hearing once she had engaged an Advocate. It is sufficient if she appeared at the time of trial. The reasons given by the petitioner are not sufficient to transfer the case in O.S.No.270 of 2013 from the file of the Subordinate Judge, Tuticorin to the file of Family Court, Madurai.

7. In view of the fact that the petitioner is regularly appearing before the Judicial Magistrate No.I, Tuticorin and appearing before the Social Welfare Officer, Tuticorin and there is no necessity for her appearance before the Subordinate Court, Tuticorin in O.S.No.270 of 2013, The Transfer Civil Miscellaneous Petition is dismissed as devoid of merits. No cost. Consequently, connected M.P(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub- Assistant Registrar

To

The Subordinate Judge,
Tuticorin.

+1cc to Mr.R.Alagumani, Advocate in SR.No. 18460/15

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Tr.C.M.P. (MD)No.361 of 2014
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