



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2015

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

Tr.C.M.P.(MD).No.382 of 2014 and
M.P.(MD).No. 1 of 2014

K. Radha : Petitioner

Vs.

P. Raja : Respondent

Prayer: This Transfer CMP is filed under Section 24 of CPC praying to withdraw and transfer HMOP.No.959 of 2014 on the file of the Family Court, Coimbatore to Sub Court, Karur.

For Petitioner : Mr. R. Mathiyalagan
For Respondent : M/s. B. Tamil Nidhi

ORDER

This petitioner, who is the respondent in HMOP.No.959 of 2014 filed this petition, to transfer the HMOP.No.959 of 2014 from the file of the Family Court, Coimbatore to Sub Court, Karur.

2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 01.09.2011, as per Hindu Rites and Customs. There is no issues in the wedlock. Due to mis-understanding, between the petitioner and respondent, the respondent / husband filed HMOP.No.959 of 2014, before the Family Court, Coimbatore, for divorce. The petitioner / wife filed complaint before the District Social Welfare Officer, Karur and the same was taken on file in DVA.No.33 of 2014, before the learned Judicial Magistrate-I, Karur. According to the petitioner, the respondent is regularly attending the Court.

3. Now, the petitioner is staying with her aged parents at Karur. They are agricultural Coolie. The distance between Karur and Coimbatore is approximately 160 Kilometers and it is very difficult for the petitioner to travel each and every hearing to attend HMOP.NO.959 of 2014, before the Family Court, Coimbatore. Further, she is not having any independent income. The petitioner is only depending on her parents for day to day expenses, including travel expenses. In the circumstances the petitioner has filed the present petition to transfer the HMOP.No.959 of 2014 from the file of the Family Court, Coimbatore to the Sub Court, Karur.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The learned counsel for the petitioner represented that the respondent is well educated and he is working at Coimbatore and he is earning more money.



5. The learned counsel for the respondent filed counter affidavit denying the various averments made by the petitioner. According to the respondent, the petitioner is having financial support from her two brothers and she is financially well off. On the other hand, the respondent is agricultural coolie and not earning sufficient income. Further, the petitioner and his family members threatening the respondent. Therefore, he prayed for dismissal of this Transfer C.M.P.

6. When the matter was taken up for hearing, the learned counsel for the respondent represented that already the HMOP was taken for trial and the respondent has also filed proof affidavit.

7. Heard the learned counsel appearing for both parties.

8. Admittedly, the petitioner is residing at Karur, it will be very difficult for her to travel each and every hearing to attend HMOP.No.959 of 2014, before the Family Court, Coimbatore and she has no independent income. The respondent has stated that the petitioner threatened him, but, he has not furnished any details.

9. It is well settled law that whenever, the transfer petition 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.

10. The fact remains that the parties have to appear before the Family Court for each and every hearing, whereas if HMOP is being transferred to Sub Court, the parties need not appear for each and every hearing, but has to appear only when required and at the time of trial. It will be sufficient in the Interest of Justice HMOP No.959 of 2014 pending on the file of the Family Court, Coimbatore is transferred to the Sub Court, Karur.

11. Accordingly, the Transfer CMP is ordered and the HMOP No.959 of 2014 pending on the file of the Family Court, Coimbatore is ordered to be withdrawn and transferred to the file of the Sub Court, Karur. The Family Court, Coimbatore is directed to transmit the entire records pertaining to the case in HMOP No.959 of 2014 to the transferee Court, within a week from the date of receipt of a copy of this order. The Registry is also directed to send back the papers that are pending before the Registry. As and when the records received from the Court below, the learned Subordinate Judge, Karur is directed dispose of the HMOP.No.959 of 2014, as expeditiously as possible, not later than 31st January 2016. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

\\True copy\\



To

1. The Subordinate,
Karur.

2. The Judge,
Family Court, Coimbatore

Copy to : The Section Officer, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.Mathiyalagan, Advocate Sr.NO.28686

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