



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2015

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.50 of 2014 and
M.P(MD)No.1 of 2014

N.Preethika

... Petitioner

Vs.

P.Nagendran @ Jayaprakash

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the F.C.O.P.No.39 of 2013 from the file of Family Court, Salem and transfer the same to the file of Additional Sub Court, Karur to be tried along with H.M.O.P.No.264 of 2013.

For Petitioner : Mr.P.Vinoth for M/s.N.C.Ashokkumar
For Respondent : No appearance

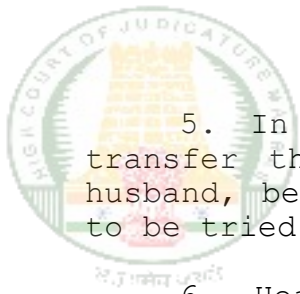
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the F.C.O.P.No.39 of 2013 from the file of Family Court, Salem and transfer the same to the file of Additional Sub Court, Karur to be tried along with H.M.O.P.No.264 of 2013.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 05.06.2011. A male child was born on 26.06.2012 in the wedlock. After the birth of the child, the respondent did not take the petitioner to the matrimonial home. The petitioner is residing at Karur with her parents. The respondent filed F.C.O.P.No.39 of 2013 before the Family Court, Salem, for divorce, making false allegations.

3.The petitioner filed Tr.C.M.P.No.143 of 2013 before this Court for transfer the F.C.O.P.No.39 of 2013, from the file of the Family Court, Salem to Sub Court, Karur. This Court, by the order, dated 31.10.2013, directed the respondent herein to pay the petitioner/wife a sum of Rs.25,000/- as travelling expenses and other conveniences on or before 15.11.2013, failing which, the case in F.C.O.P.No.39 of 2013 to be handed over to the Sub Court, Karur by the learned Family Court Judge, Salem, forthwith for further trial. As per the orders of this Court, the respondent did not pay the amount. The petitioner filed H.M.O.P.No.264 of 2013 on the file of the Additional Sub Court, Karur for Restitution of Conjugal Rights. She also filed M.C.No.36 of 2013 before the Chief Judicial Magistrate, Karur claiming maintenance.

4. Now, the petitioner is staying at Karur along with her parents. It is very difficult for the petitioner to travel each and every hearing before the Family Court, Salem. The petitioner is depending on her parents for her day-to-day expenses including travel expenses.



5. In such circumstances, the petitioner filed this petition to transfer the aforesaid F.C.O.P.No.39 of 2013, filed by the respondent husband, before the Family Court, Salem, to Additional Sub Court, Karur, to be tried along with HMOP.No.264 of 2013 filed by petitioner.

6. Heard the learned counsel appearing for petitioner. Despite service of notice by paper publication and his name is printed in the cause list, the respondent has not chosen to appear either in person or through pleader. The respondent has not complied with the earlier order directing him to pay a sum of Rs.25,000/- to the petitioner. In view of the failure on the part of the respondent to comply with earlier order of this Court, F.C.O.P.No.39 of 2013 filed by the respondent is to be transferred to Sub Court, Karur.

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. The petitioner is residing at Marur. 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 non-compliance of earlier order passed by this Court and in the interest of justice, both the petitions viz., F.C.O.P.No.39 of 2013 and H.M.O.P.No.264 of 2013, are to be tried together in the same Court. Therefore, I am of the view that the transfer petition filed by the wife is liable to be allowed.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.39 of 2013, on the file of the Family Court, Salem, is hereby withdrawn and transferred to the file of the Additional Sub Court, Karur, to be tried along with H.M.O.P.No.264 of 2013 filed by the petitioner, if the same is not yet disposed of. The learned Family Court Judge, Salem, is directed to send the case bundles to the Additional Sub Court, Karur, 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 (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Family Court, Salem.
2. The Additional Subordinate Judge, Karur.

Copy to: The Section officer, VR Section,
Madurai Bench of Madras High court, Madurai

+1cc to MR.N.C.ASHOK KUMAR, Advocate in SR.No. 39226

Am

SR : 05.08.2015 : 2p/5c

Tr.C.M.P (MD) No.50 of 2014 and
M.P (MD) No.1 of 2014
15.07.2015