



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2015

CORAM

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THE HONOURABLE MS. JUSTICE V.M. VELUMANITr.C.M.P(MD)No.114 of 2015 and
M.P(MD)No.1 of 2015

Karthiga

... Petitioner
Vs.

S.Kumaran

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in I.A.No.103 of 2014 in H.M.O.P.No.159 of 2011, pending on the file of the Principal Subordinate Judge, Cuddalore and transfer the same to the file of Principal Subordinate Judge, Dindigul District.

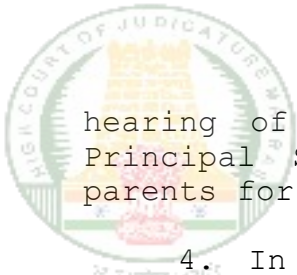
For Petitioner : Mr.N.Sathish Babu
For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in I.A.No.103 of 2014 in H.M.O.P.No.159 of 2011, pending on the file of the Principal Sub Court, Cuddalore and transfer the same to the file of Principal Sub Court, Dindigul District.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 15.02.2009. A male child was born on 21.01.2010 in the wedlock. Due to misunderstanding, the respondent filed H.M.O.P.No.159 of 2011, before the Principal Sub Court, Cuddalore, for divorce. While so, the petitioner filed H.M.O.P.No.350 of 2011, before the Principal Sub Court, Dindigul, for Restitution of Conjugal Rights. H.M.O.P.No.159 of 2011, on the file of the Principal Sub-Court, Cuddalore, was decreed ex-parte. The petitioner filed I.A.No.103 of 2014, to condone delay in filing the petition to set aside the ex-parte decree, passed in H.M.O.P.No.159 of 2011. The respondent filed G.O.P.No.81 of 2014, before the Principal District Court, Cuddalore, for custody of the child. The petitioner filed Tr.C.M.P.No.350 of 2014 before this Court, to transfer the case in G.O.P.No.81 of 2014, pending on the file of the Principal District Court, Cuddalore to the file of the Principal District Court, Dindigul. This Court, by order, dated 16.12.2014, allowed the Tr.C.M.P.No.350 of 2014, transferring G.O.P.No.81 of 2014 from the file of the Principal District Court, Cuddalore, to the file of the Principal District Court, Dindigul.

3. Now, the petitioner is residing at Dindigul. The distance between Dindigul and Cuddalore, is 300 kms and it is very difficult for her to travel each and every hearing along with her minor child to attend the



hearing of I.A.No.103 of 2014 in H.M.O.P.No.159 of 2011, before the Principal Sub Court, Cuddalore. The petitioner is depending on her parents for her day-to-day expenses including traveling expenses.

4. In such circumstances, the petitioner filed this petition to transfer the aforesaid I.A.No.103 of 2014 in H.M.O.P.No.159 of 2011, filed by the petitioner, before the Principal Sub Court, Cuddalore, to Principal Sub Court, Dindigul, to be tried along with HMOP.No.350 of 2011.

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. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. 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 I.A.No.103 of 2014 in H.M.O.P.No.159 of 2011 and H.M.O.P.No.350 of 2011, are to be tried together in the same Court. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and I.A.No.103 of 2014 in H.M.O.P.No.159 of 2011, on the file of the Principal Sub Court, Cuddalore, is hereby withdrawn and transferred to the file of the Principal Sub Court, Dindigul, to be tried along with H.M.O.P.No.350 of 2011 filed by the petitioner, if the same is not yet disposed of. The learned Principal Sub Court, Cuddalore, is directed to send the case bundles to the Principal Sub Court, Dindigul, 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(AS)

/True Copy/

Sub Assistant Registrar

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To

1. The Principal Subordinate, Cuddalore.
 2. The Principal Subordinate, Dindigul.
- +1CC to M/S.N.Sathishbabu ADV.Sr.No.41050

Tr.C.M.P(MD)No.114 of 2015 and
M.P(MD)No.1 of 2015
24.07.2015

GJM-24.8.15-2P-4C