



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2015

Coram:

THE HONOURABLE MR. JUSTICE T.MATHIVANAN

Tr.C.M.P(MD)No.124 of 2015

and M.P(MD) No.1 of 2015

WEB COPY

V.Jothilakshmi

.. Petitioner/Petitioner

-Vs-

Kalidhas Jawahar

.. Respondent/Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw the petition in H.M.O.P.No.410 of 2015 from the file of the Family Court No.I, Chennai and to transfer the same to the Sub Court, Kovilpatti to be tried along with H.M.O.P.No.47 of 2015 filed by the petitioner for restitution of conjugal rights.

For Petitioner : Mr.M.P.Senthil

For Respondent : No appearance

ORDER

After invoking the provisions of Section 24 of the Code of Civil Procedure, 1908, the petitioner has preferred this petition to withdraw the matrimonial proceedings in H.M.O.P.No.410 of 2015 from the file of the Family Court No.I, Chennai and to transfer the same to the Sub Court, Kovilpatti to be tried along with the petition in H.M.O.P.No.47 of 2015.

2. Despite the service of notice on the respondent, he has not chosen to appear either in person or through his counsel. His name has also been printed in the cause-list. Since there is no representation, he is called absent and hence, there is no other go for this Court excepting to hear Mr.M.P.Senthil, learned counsel appearing for the petitioner and dispose of the matter on merits.

3. The petitioner herein is none other than the wife of the respondent. As per the averments of the petition, their marriage was solemnized on 18.06.2009 as per Hindu Rites and Customs. Thereafter, on account of development of a linear crack in their matrimonial relationship, they were parted with each other and living separately. Under this circumstance, the respondent happened to file a petition in H.M.O.P.No.410 of 2015 seeking the relief of divorce on the ground of cruelty and mental disorder of the wife before the Family Court No.I, Chennai. In the interregnum, the petitioner, being the wife, has also filed an ~~application~~ petition in H.M.O.P.No.47 of 2015 seeking the relief of restitution of conjugal rights on the file of the Sub Court, Kovilpatti.



4. Besides this, the petitioner says that she is living along with her mother, who is aged about 67 years and she finds it difficult to travel all along from Kovilpatti to Chennai to make her presence in the matrimonial proceedings in H.M.O.P.No.410 of 2015. She has also submitted that insofar as the Family Court No.I, Chennai is concerned, both parties's presence are absolutely necessary and inevitable and hence, she would submit that it might be better to transfer the petition in H.M.O.P.No.410 of 2015 to the Sub Court, Kovilpatti to be tried along with H.M.O.P.No.47 of 2015 from the file of the Family Court No.I, Chennai and further, she would submit that she is not able to maintain herself and she hardly finds financial support even to meet out her transport expenses to the extent of Rs.2,000/- for each and every hearing from Kovilpatti to Chennai and on that ground also, she has sought the relief of withdrawal of the above said petition in H.M.O.P.No.410 of 2015 from the file of the Family Court No.I, Chennai.

5. As afore stated, despite the service of notice, the respondent has miserably failed to appear before this Court and therefore, this Court finds that, in the interest of Justice, it may be expedient to grant the relief sought for by the petitioner.

6. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the matrimonial proceedings in H.M.O.P.No.410 of 2015 is ordered to be withdrawn from the file of the Family Court No.I, Chennai and transferred to the file of the learned Sub Judge, Kovilpatti to be tried along with H.M.O.P.No.47 of 2015. The learned Family Court Judge No.I, Chennai is directed to transmit the records to the transferee Court within a period of one week from the date of receipt of a copy of this order. After getting the records from the learned Family Court Judge No.I, Chennai, the transferee Court is directed to dispose of the same within a prescribed period of six months thereafter, without loss of further time. There is no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

1.The Family Court Judge No.I, Chennai.

2.The Subordinate Judge, Kovilpatti.

+One cc to Mr.M.P.Senthil, Advocate, SR.No.69655

ps

RL/4C/PM/MP/SARI/29/12/2015

Tr.C.M.P(MD)No.124 of 2015

and

M.P(MD) No.1 of 2015

03.12.2015