



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P (MD) No.147 of 2015
and
M.P (MD) No.1 of 2015

Karthika

... Petitioner

Vs.

Gowrisankar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the HMOP No.118 of 2014 on the file of the Subordinate Court, Sivakasi and transfer the same to try along with HMOP No.725 of 2014 on the file of Family Court, Madurai.

For Petitioner : Mr.R.Devaraj

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in HMOP No.118 of 2014 on the file of the Subordinate Court, Sivakasi and transfer the same to try along with HMOP No.725 of 2014 on the file of Family Court, Madurai

2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 17.06.2010 as per Hindu Rites and Customs. Both the petitioner and the respondent were residing in matrimonial home at Bangalore. According to the petitioner, in view of the medical treatment given to the respondent, the petitioner was sent to Madurai and the respondent left to Sivakasi. Subsequently, the respondent went to Malaysia on 02.10.2010. On 30.10.2010, the petitioner also went to Malaysia and both the petitioner and the respondent lived together in Malaysia for three months and returned to Bangalore. A male child was born on 29.11.2011. After the birth of the male child, both the petitioner and the respondent lived together till 10.04.2013. Due to misunderstanding and difference of opinion, the petitioner filed H.M.O.P.No.725 of 2014 before the Family Court, Madurai for Restitution of Conjugal Rights. The respondent also filed HMOP No.118 of 2014 before the Subordinate Court, Sivakasi for divorce.

3.The petitioner is residing at Madurai along with her aged parents with three years old child. She is not able to travel from Madurai to Sivakasi along with child. The distance between the Madurai and Sivakasi is 80 kms. The petitioner is depending on her parents for day to day expenses including travel expenses.



4.Now, the petitioner/wife filed this petition to transfer the aforesaid HMOP No.118 of 2014 filed by the respondent/Husband before the Subordinate Court, Sivakasi to the Family Court, Madurai to be tried along with H.M.O.P.No.725 of 2014 filed by her.

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.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 H.M.O.P.No.118 of 2014 and H.M.O.P.No.725 of 2013 are ordered to be tried together in the same Court.

7. It is well settled law that whenever, the transfer application 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.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.118 of 2014 on the file of the Subordinate Court, Sivakasi, is hereby withdrawn and transferred to the file of the Family Court, Madurai, to be tried along with H.M.O.P.No.725 of 2014 filed by the petitioner, if the same is not yet disposed of. The learned Subordinate Judge, Sivakasi, is directed to send the case bundles to the Family Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P (MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Sivakasi.

2.The Judge, Family Court, Madurai.

+1cc to M/S. R.Devaraj, Advocate in SR.No 27347

TS/18.06.2015/2P -4C

Tr.C.M.P. (MD)No.147 of 2015

03.06.2015