



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2015

CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.152 of 2015

and

M.P(MD)No.1 of 2015

Unnamalai @ Sumathi

... Petitioner/Respondent
Vs.

S. Alagappan

... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in GWOP.No.9 of 2015 on the file of the learned I Additional District Judge, Madurai to any one of the Court having competent jurisdiction to try the said case at Sivagangai, Sivagangai District and consequently direct the transferee Court to deal with the said case in accordance with law.

For Petitioner : Mr. R. Anand

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the case in GWOP.No.9 of 2015 on the file of the learned I Additional District Court, Madurai, to any one of the Court having competent jurisdiction to try the said case at Sivagangai, Sivagangai 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 08.11.2006. A male child was born on 10.04.2008, in the wedlock. The respondent and his family members tortured the petitioner and the respondent also beaten her. Therefore, she gave a complaint before the All Woman Police Station, Sivagangai. After appearing before all Women Police Station, for enquiry, the respondent filed HMOP.No.152 of 2012, before the Sub Court, Poonamalle, Thiruvallur District, for divorce. The petitioner filed Transfer CMP(MD).No.3 of 2013, to transfer HMOP.No.152 of 2012 from the file of the Sub Court, Poonamalle, Thiruvallur District to Sub Court, Sivganganai. This Court, by order, dated 07.08.2013, transferred HMOP.No.152 of 2012 from the file of the Sub Court, Poonamalle, Thiruvallur District, to Sub Court, Sivganganai. The petitioner filed M.C.No.1 of 2013 and DVOP.No.3 of 2013, before the learned Judicial Magistrate-I, Sivaganganai, against the respondent and his parents. All the three cases are pending before the Sub Court, Sivaganganai. In the circumstances, the respondent has filed GWOP.No.9 of 2015 before the I Additional District Judge, Madurai, with an ulterior motive. Further, the petitioner initiated various proceedings against the respondent. In the circumstances, the petitioner has come out with the present petition, on the ground that as per Section 9 of the Guardian and Wards Act, 1890 for the custody of minor child, a



petition would lie before the District Court having jurisdiction, in the place, where the minor resides.

3. Heard the learned counsel for the petitioner. Despite service of notice, the respondent has not chosen to appear either in person or through counsel.

4. In view of Section 9 of the Guardian and Wards Act, and the fact that this Court, on earlier occasion, transferred HMOP.No.152 of 2012 filed by the respondent from the file of the Sub Court, Poonamalle, Thiruvallur District, to Sub Court, Sivgangai, in Transfer CMP(MD).No.3 of 2013, and other two cases viz., M.C.No.1 of 2013 and DVOP.No.3 of 2013, are pending before the learned Judicial Magistrate-I, Sivagangai, I am of the view that the petition filed by the wife is liable to be allowed.

5. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and GWOP.No.9 of 2015, on the file of the learned I Additional District Court, Madurai, is hereby withdrawn and transferred to the file of the District Court, Sivgangai, if the same is not yet disposed of. The learned learned I Additional District Judge, Madurai, is directed to send the case bundles to the District Court, Sivgangai, 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(Writs)

/True copy/

Sub Assistant Registrar

To

- 1.The I Additional District Judge, Madurai.
- 2.The District Judge, Sivagangai.
- 3.The Principal District Judge,
Madurai.

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Anand,Advocate SR.No.28852

Tr.C.M.P(MD)No.152 of 2015 and
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trp

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