



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

Tr.C.M.P(MD)No.166 of 2015 and
M.P(MD)No.1 of 2015

Ponmalar

... Petitioner

Vs.

Nakkeeran

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in HMOP.No.189 of 2014 on the file of the Principal Sub Court, Tenkasi, and transfer the same to the file of Sub Court, Srivilliputur.

For Petitioner	: Mr. V. Sasikumar
For Respondent	: No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer HMOP.No.189 of 2014, from the file of Principal Sub Court, Tenkasi, to Sub Court, Srivilliputur.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 23.06.1999, as per Hindu Rites and Customs. A female child was born on 04.04.2000, in the wedlock. The petitioner came to know on the first day of marriage itself that the respondent is a drug addict. The respondent started harassing the petitioner and abused her in filthy language. The petitioner was sent out from the matrimonial home. The petitioner filed HMOP.No.139 of 2014, on the file of Sub-Court, Srivilliputur, for divorce. Thereafter, the respondent filed HMOP.No.189 of 2014, on the file of Principal Sub Court, Tenkasi, for restitution of conjugal rights.

3. Now, the petitioner is residing with her parents along with her minor daughter, at Rajapalayam. The daughter is studying 9th Standard in her native place. According to the petitioner, the distance between Rajapalayam and Srivilliputur is approximately 80 Kms and it is very difficult for her to travel each and every hearing along with minor daughter, to attend H.M.O.P.No.189 of 2014, on the file of Principal Sub Court, Tenkasi. Further, the petitioner is not having any independent income. She is only



depending on her parents for her day to day expenses including the travel expenses.

4. In such circumstances, the petitioner filed this petition to transfer the aforesaid H.M.O.P.No.189 of 2014, filed by the respondent before the Principal Sub Court, Tenkasi, to Sub Court, Srivilliputur.

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

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 H.M.O.P.No.189 of 2014 and HMOP.No.139 of 2014 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 H.M.O.P.No.189 of 2014, on the file of Principal Sub Court, Tenkasi, is hereby withdrawn and transferred to the file of Sub-Court, Srivilliputur, to be tried along with H.M.O.P.No.139 of 2014, filed by the petitioner, if the same is not yet disposed of. The learned Principal Subordinate Judge, Tenaksi, is directed to send the case bundles to the Sub Court, Srivilliputur, 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

To

1.The Principal Sub Judge, Tenkasi.

2.The Sub Judge, Srivilliputur.

Copy To:

The Section Officer,

VR Section, Madurai Bench of Madras High Court, Madurai

+1cc to MR.V.Sasikumar, Advocate Sr.No.36267

trp

AA/23.07.2015/ 2p- 5c/

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