



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P (MD) No.189 of 2015 and
M.P. (MD) .No. 1 of 2015

Adhithiya

... Petitioner

Vs.

M. Pandiyarajan

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in HMOP.No.852 of 2014 on the file of Family Court, Madurai to any other Competent Court within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.S. Malikani

For Respondent : Mr. D. Rameshkumar

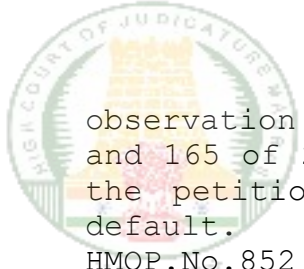
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer HMOP.No.852 of 2014 on the file of Family Court, Madurai to any other Competent court within the time stipulated by this Hon'ble Court.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 09.09.2013, as per Hindu Rites and Customs. After marriage both were living together at Madurai, with her parents. While so, one Sankara Narayanan filed HCP.No.94 of 2014, before this Court, claiming to be the husband of the petitioner. Due to filing of HCP by said Sankara Narayanan, mis-understanding has arisen, between the petitioner and respondent. The respondent filed HMOP.No.852 of 2015, on the file of Family Court, Madurai, for divorce. The petitioner filed HMOP.No.165 of 2014, for restitution of conjugal rights, on the file of Family Court, Madurai.

3. Now, the petitioner has come out the present petition, to transfer HMOP.No.852 of 2014, on the file of Family Court, Madurai to any other Competent Court alleging that the Presiding Officer / Family Court, Madurai had pre-determined the case as he said in the open Court that she is working in Bank and she can marry some other boy and he is going to allow HMOP filed by the respondent. Hence, the petitioner has filed this petition to transfer the HMOP.No.852 of 2014, on the file of Family Court, Madurai to any other Competent Court.

4. The respondent filed counter affidavit denying all the averments made by the petitioner. He stated that the petitioner has come out with the present petition with false allegation against the Presiding Officer. He specifically denied that the Presiding Officer has made any such



observation as alleged by the petitioner. Both the HMOP.Nos.852 of 2014 and 165 of 2014 were posted for arguments. HMOP.No.165 of 2014, filed by the petitioner, for restitution of conjugal rights, was dismissed for default. Thereafter, the petitioner filed this petition, to transfer HMOP.No.852 of 2014, on the file of Family Court, Madurai, to any other competent Court, on the ground that Presiding Officer had made certain pre-determined observation against the petitioner. The respondent denied the said allegation.

5. Heard the learned counsel appearing for the parties.

6. From the pleadings it is seen that HMOP.No.852 of 2014, filed by the respondent is posted for arguments. In view of the fact that HMOP is posted for arguments and examination of the witnesses is over and the respondent denied that the Presiding Officer had made such observation as stated by the petitioner, this is not a fit case for transfer. The attitude of the litigant making allegation against the Presiding Officer, without any basis should not be encouraged. But, it should be deprecated. In the circumstances, I am not inclined to allow the Transfer CMP filed by the petitioner.

7. In the result, the Transfer CMP is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

The Family Court, Madurai

+1CC TO MR. S. MALAIKANI ADVOCATE SR NO.37909

trp:

sdr:29.07.2015 :2p/3c

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