



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2015

CORAM:

THE HON'BLE MR.JUSTICE T.MATHIVANAN

Tr.C.M.P (MD) No.222 of 2015

and

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

P.Sheela

: Petitioner

Vs.

A.Pandian

: Respondent

Prayer: This petition is filed under section 24 of the Civil Procedure Code, to withdraw the case in SMOP No.5 of 2014 from the Principal District Court, Theni and to transfer the same to the file of any competent court in Madurai District.

For Petitioner : Mr.L.Rajiah

For respondent : Mr.B.Jeyakumar

O R D E R

This petition is filed under section 24 of the Civil Procedure Code to withdraw the matrimonial proceedings in SMOP No.05 of 2014 from the file of the Principal District Court, Theni and to transfer the same to any competent court at Madurai, for disposal.

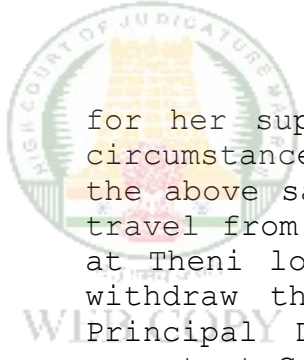
2.Heard Mr.L.Rajiah, learned counsel appearing for the petitioner and Mr.B.Jeyakumar, learned counsel appearing for the respondent.

3.There is no dispute with regard to the matrimonial relationship of the petitioner and the respondent.

4.It is obvious to note here that their marriage was solemnized at Pentecostal Ministry Church, Theni on 12.09.2012. The respondent has been serving in Army Medical Corps and presently serving in the Unit of 2118 Field Hospital C/O 56 APO under the record office and training college at Lucknow-02, Uttar Pradesh.

5.On account of misunderstanding and difference of opinion developed in their matrimonial relationship, they have been living separately for the past more than two years. Under this circumstance, the respondent has filed a petition in SMOP No.5 of 2014 under section 27 (ii), (b) and (d) of the Special Marriage Act, 1954 before the Principal District Court, Theni, within whose jurisdiction the marriage was solemnized. In the said matrimonial proceedings, notice was served to the petitioner, who is the respondent therein and she had also appeared through her counsel. Now, the petitioner has stated in this petition that she did not have any income for maintaining herself.

6.It is revealed that she is qualified as General Nursing, but she is not able to get appropriate job for the medical reasons. She has also stated that her parents are too old and now, no male member is available



for her support for the purpose of earning for the family. Under this circumstance, she has come forward with this petition for the transfer of the above said matrimonial proceedings saying that she finds difficult to travel from Nagamalai Pudukottai, Madurai District, to the District Court at Theni lonely as she is being a lady and hence, she has requested to withdraw the above said matrimonial proceedings from the file of the Principal District Judge, Theni and to transfer the same to any competent Court at Madurai, for disposal.

7.Mr.B.Jeyakumar, learned counsel appearing for the respondent has strenuously opposed to allow this petition. In this connection, he would submit that the distance between the residential place of the petitioner and the District Court, Theni would be only 70 kms and since, the District Court, Theni is not the Family Court, the presence of the petitioner may not be strictly necessary and her counsel, who is appearing for her before that court can represent on her behalf and further he has submitted that no valid reasons are given by the petitioner for the transfer of the above said matrimonial proceedings.

8.On the other hand, Mr.L.Rajiah, learned counsel appearing for the petitioner has submitted that considering the present trend as well as increasing rate of crime against women, she apprehends to travel alone from Nagamalai Pudukottai to Theni and since, she did not have any financial support for maintaining herself and to meet out the family expenses, he has urged that the petition be allowed and the matrimonial proceedings be ordered to be transferred to Madurai.

9.This court has struck a balance between the submissions made by both the learned counsels. This court has also perused the averments of the petition and the materials available on record.

10.As rightly argued by Mr.D.Jeyakumar, learned counsel appearing for the respondent, no adequate reason is given for the transfer of the matrimonial proceedings in SMOP No.05 of 2014 from the District Court, Theni to Madurai.

11.Keeping in view of the above facts, this court does not find any merit in this petition and accordingly, the petition is dismissed. However, the learned Principal District Judge, Theni is directed to expedite the matrimonial proceedings in SMOP No.5 of 2014 and dispose the same as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge, Theni.

+1cc to Mr.B.Jeyakumar, Advocate SR.No.68701

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Date :01.12..2015