



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2015

Coram:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Tr.C.M.P (MD) No.342 of 2015
and M.P (MD) No.1 of 2015

WEB COPY

Roopavardhini .. Petitioner/Respondent

-Vs-

B.Karthikeyan .. Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw and transfer the petition in F.C.O.P.No.360 of 2015 from the file of the Family Court, Salem and transfer to the file of the Family Court, Trichy.

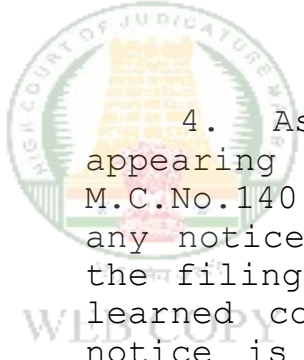
For Petitioner : M/s.T.Banumathy
For Respondent : Mr.S.Deenadhayalan

ORDER

This petition is filed by the petitioner under Section 24 of the Code of Civil Procedure, 1908, to withdraw the matrimonial proceedings in F.C.O.P.No.360 of 2015 from the file of the Family Court, Salem and to transfer the same to the Family Court, Tiruchirappalli for disposal, in accordance with law.

2. The petitioner is the wife of the respondent. Their marriage was solemnized on 09.09.2013 at Tiruchirappalli. Thereafter, the respondent had got a job at Australia and therefore, he had left India on 30.09.2013. The respondent had also taken the petitioner to Australia and she lived there along with the respondent for some time. It is alleged that on account of matrimonial dispute, she was forced to leave Australia on 18.01.2014 without assigning reasons to her parents and now, she has stated that she is living along with her parents at Tiruchirappalli. Under this circumstance, a petition in F.C.O.P.No.360 of 2015 before the Family Court, Salem was filed by the respondent, as against the petitioner seeking the relief of divorce. The petitioner has appeared before the Family Court, Salem and filed her objection also. Now, the petition is ripe for enquiry.

3. In the meantime, M/s.T.Banumathi, learned counsel appearing for the petitioner has submitted that the petitioner had filed a petition in M.C.No.140 of 2015 on the file of the Family Court, Tiruchirappalli, claiming maintenance.



4. As submitted by Mr.S.Deenadhayalan, learned counsel appearing for the respondent, insofar as the maintenance case in M.C.No.140 of 2015 is concerned, the respondent has not received any notice and in fact, the respondent has placed in dark about the filing of the maintenance petition. However, M/s.T.Banumathy, learned counsel appearing for the petitioner has admitted that notice is yet to be sent to the respondent in respect of the maintenance case. Further, the learned counsel has also argued that from Tiruchirappalli to Salem, there is a distance of more than 180 kms., and therefore, the petitioner finds it difficult to travel lonely from Tiruchirappalli to Salem and further, since she has filed a maintenance petition before the Family Court, Tiruchirappalli and since the respondent is also residing and working at Australia, she has urged to withdraw the matrimonial proceedings in F.C.O.P.No.360 of 2015 from the file of the Family Court, Salem and to transfer the same to the file of the Family Court, Tiruchirappalli to be tried along with the maintenance petition in M.C.No.140 of 2015.

5. But, Mr.S.Deenadhayalan, learned counsel appearing for the respondent has strongly objected to transfer the matrimonial proceedings in F.C.O.P.No.360 of 2015 from the file of the Family Court, Salem and to transfer the same to the file of the Family Court, Tiruchirappalli on the ground that part of the trial proceedings were completed in respect of the matrimonial proceedings in F.C.O.P.No.360 of 2015 before the Family Court, Salem.

6. This Court has heard the submissions made by both sides, perused the averments of the petition along with the other materials available on record.

7. It is brought to the notice of this Court that in order to get separate visa, the respondent has filed a petition for divorce before Australia, obviously, he was having spouse visa. However, this may not be a bar for getting transfer of matrimonial proceedings on the file of the Family Court, Salem.

8. Mr.S.Deenadhayalan, learned counsel appearing for the respondent has also submitted that since the petitioner had been working at Chennai, it might be better to transfer the matrimonial proceedings from the file of the Family Court, Salem to the file of the Family Court, Chennai. But, this has been strongly denied by M/s.T.Banumathy, learned counsel appearing for the petitioner saying that prior to marriage, she was working at Chennai and now, she is residing along with her parents at Tiruchirappalli.

<https://hcservices.courts.gov.in/hcservices> 9. Mr.S.Deenadhayalan, learned counsel appearing for the respondent has gone to the extent of saying that instead of transferring the petition in F.C.O.P.No.360 of 2015 from the file



of the Family Court, Tiruchirappalli, it could be transferred to the file of the Sub Court, Namakkal, as Namakkal is located in the middle, in between Tiruchirappalli and Salem.

10. This Court has also analysed the submissions and since the respondent is residing in Australia, there may not be any difficulty for him to appear before the Family Court, Tiruchirappalli to depose his evidence, whenever his presence is required. Admittedly, it may not be possible for the respondent to make his presence for each and every hearing and to travel all along from Australia.

11. It is to be noted that practically it may be difficult to make his presence in the Family Court, Tiruchirappalli for each and every hearing, after coming down to India from Australia and therefore, the personal appearance of the respondent is dispensed with and he is directed to make his personal appearance before the Family Court, Tiruchirappalli, whenever his personal appearance is required for giving evidence.

12. Under this circumstance, this Transfer Civil Miscellaneous Petition is allowed and the matrimonial proceedings in F.C.O.P.No.360 of 2015 is ordered to be withdrawn from the file of the Family Court, Salem and transferred to the file of the learned Family Court Judge, Tiruchirappalli to be tried along with M.C.No.140 of 2015. The learned Family Court, Salem is directed to transmit the records to the transferee Court within a period of one week from the date of receipt of a copy of this order. After getting the records from the learned Family Court, Salem, the transferee Court is directed to dispose of the same within a short span of time, preferably by the end of March, 2016, without loss of further time. There is no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai

ps

To

1.The Judge, Family Court,Salem.

2.The Judge, Family Court, Tiruchirappalli.

+1 cc to Mr.S.Deenadhayan, Advocate, SR No.69180

+1 cc to Mr.T.Banumathy, Advocate, SR No.69270

Tr.C.M.P (MD) No.342 of 2015
and

M.P (MD) No.1 of 2015
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