



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Tr.C.M.P(MD)No.354 of 2015
and
M.P.(MD).No.1 of 2015

R.Sudha

.. Petitioner/Respondent

Vs.

R.Selvendran

.. Respondent/Petitioner

Prayer: This Transfer CMP is filed under Section 24 of Code of Civil Procedure, praying to withdraw the case in H.M.O.P.55 of 2015 from the file of the Subordinate Judge, Periyakulam and to transfer the same to the file of the Subordinate Judge, Sivakasi.

For Petitioner : Mr.C.Dilip Kumar
For Respondent : No Appearance

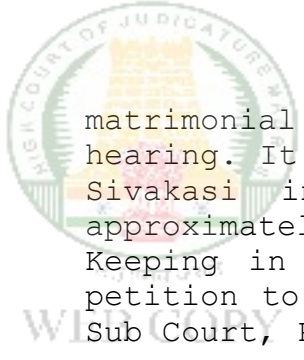
O R D E R

This petition is filed by the petitioner, who is none other than the wife of the respondent, to withdraw the matrimonial proceedings in H.M.O.P.No.55 of 2015 from the file of the learned Sub Judge, Periyakulam and transfer the same to the file of the learned Sub Judge, Sivakasi.

2. When the petition came up for hearing on 24.11.2015, for the first time there was no representation on behalf of the respondent. One Mr.Dilip Kumar, learned counsel appearing for the petitioner was present and ready to argue the case. Thereafter the petition was listed on 10.12.2015. Even on that day also there was no representation for the respondent and again this matter stands posted on today under the caption 'for orders' and even today also there is no representation for the respondent. Hence this Court is constrained to dispose of the matter on merits in the absence of the respondent.

3. It is apparent from the records that originally the respondent had instituted a matrimonial proceedings before the learned Sub Judge, Periyakulam seeking the relief of divorce on the ground of cruelty and desertion. Since one year period of separation was not completed, that petition was not pressed and accordingly dismissed on 26.06.2015. Thereafter the respondent had filed another petition in H.M.O.P.No.55 of 2015 for restitution of conjugal rights on the file of the very same Court. Now, the petition is pending adjudication before the learned Sub Judge, Periyakulam.

4. The petitioner has come forward with this petition, mainly for the transfer of the said matrimonial proceedings, on the ground that she had delivered a girl child on 16.08.2015 and hence she finds it difficult to attend the



matrimonial proceedings along with the new born baby for each and every hearing. It is to be noted that she is residing along with her parents at Sivakasi in Virudhunagar District and she has to travel 160 km approximately to Periyakulam from Sivakasi along with the new born baby. Keeping in view of the fact, she has approached this Court with this petition to transfer the matrimonial proceedings from on the file of the Sub Court, Periyakulam to the file of the Sub Court, Sivakasi.

5. This Court has considered the submission made by Mr.C.Dilip Kumar and perused the grounds of transfer petition. Having been taken into consideration of relevant facts and circumstances, this Court finds that it may be expedient in the interest of justice to grant the relief sought for by the petitioner.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and the matrimonial proceedings in H.M.O.P.No.55 of 2015 is ordered to be withdrawn from the file of the learned Sub Judge, Periyakulam and transferred to the file of the learned Sub Judge, Sivakasi. The transferee Court is directed to dispose of the H.M.O.P.No.55 of 2015 as expeditiously as possible, in accordance with law. However there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Co.Dept.) I/c

/True copy/

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Periyakulam, Theni District.
- 2.The Subordinate Judge, Sivakasi, Virudhunagar District.

+1cc to M/s.N.Dilip kumar, Adocate SR.No.71872

sm:sk-skn:03.03.2016:2P/4c

Tr.C.M.P (MD) No.354 of 2015
and
M.P. (MD) .No.1 of 2015