



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2015

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.37 of 2015

and

M.P(MD)No.1 of 2015

Puvana @ Puvaneshwari

... Petitioner

Vs.

C.Yogasethil Kumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the H.M.O.P.No.75 of 2014 on the file of Sub Court, Theni to Sub Court, Dindigul.

For Petitioner : Mr.T.Selvakumaran
For Respondent : Mr.D.Nallathambi

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the H.M.O.P.No.75 of 2014 on the file of Sub Court, Theni to Sub Court, Dindigul.

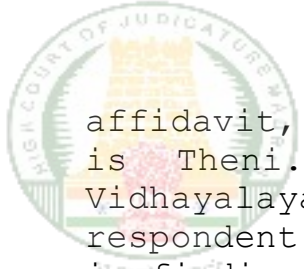
2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 06.05.2009. Both of us lived together happily. Out of the wedlock they got one female child. Due to difference of opinion and misunderstanding both of them are living separately. The petitioner is residing at Dindigul and doing Phd., at Gandhi Gramam University, Dindigul.

3.The respondent filed H.M.O.P.No.75 of 2014 before the Sub Court, Theni for divorce under Section 13(1) (1-a) of Hindu Marriage Act 1955.

4. According to the petitioner, she is residing at Dindigul. She is finding it very difficult to go to Theni along with her minor daughter for every hearing at Theni and sought for transfer the H.M.O.P.No.75 of 2014 from the file of the Sub Court, Theni to the file of Sub Court, Dindigul.

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5. The respondent/husband filed a counter affidavit denying all the averments made by the petitioner. In the counter



affidavit, he has stated that the native place of the petitioner is Theni. Minor daughter is studying UKG in Shri Renuga Vidhayalayam Matric Higher Secondary School at Theni and the respondent denied the allegations made by the petitioner that she is finding it very difficult to travel from Dindigul to Theni with her minor daughter. The petitioner was residing in Theni when the notice was issued by him before filing of H.M.O.P.No.75 of 2014 to the Theni address. She received the same and she sent a reply from Theni only. Doing Phd., in Gandhigramam University, Dindigul does not require regular attendance. She was attending class from Theni only.

6. H.M.O.P.No.75 of 2014 is pending in Sub Court, Theni. Therefore, there is no necessity to the petitioner for attending each and every hearing personally. The respondent is residing in Madras and both the petitioner and the respondent represented through Advocates only. H.M.O.P.No.75 of 2014 is posted for cross-examination of the respondent. At this stage, the petitioner has come out with the present petition only with a view to drag on the proceedings and prayed for transfer the H.M.O.P.No.75 of 2014 from the file of the Sub Court, Theni to the file of the Sub Court, Dindigul.

7. Heard the learned counsel appearing for the petitioner and for the respondent.

8. I have considered all the materials on record and arguments of counsel for petitioner and for the respondent.

9. From the pleadings and the arguments it is seen that the petitioner has not approached this Court with clean hands. She has suppressed the fact that her daughter is studying in a School at Theni, which is her native place. H.M.O.P.No.75 of 2014 is pending before the Sub Court, Theni wherein both the petitioner and the respondent are represented through Advocates. The H.M.O.P., is at final stage and pending for the cross-examination of the respondent by the counsel for the petitioner.

10. For the above reasons, I hold that the Tr.C.M.P., is devoid of merits and liable to be dismissed. Accordingly, this petition is dismissed. No costs. Consequently, M.P.(MD)No.1 of 2014 is dismissed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To

The Subordinate Judge, Theni

+One cc to Mr.D.Nallathambi, Advocate, SR.No.18842

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RL/3 c- 27/4/2015

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