



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2015

Coram:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Tr.C.M.P(MD)No.410 of 2015
and M.P(MD) No.1 of 2015

Rajeshwari .. Petitioner/Respondent

-Vs-

Ravikumar .. Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, praying to withdraw and transfer the original petition in H.M.O.P.No.35 of 2012 on the file of the learned Principal Sub Judge, Tenkasi to be heard along with H.M.O.P.No.138 of 2015 pending on the file of the learned Principal Subordinate Judge, Sankarankovil and pass such further or other orders.

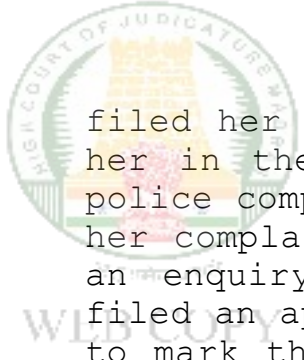
For Petitioner : Mr.T.S.Mohamed Mohideen
For Respondent : Mr.G.Thalaimutharasu

ORDER

This transfer petition is filed by the petitioner, who is none other than the wife of the respondent, under Section 24 of the Code of Civil Procedure, 1908 to withdraw the matrimonial proceedings in H.M.O.P.No.35 of 2012 from the file of the Principal Sub Court, Tenkasi and transfer to the file of the Principal Sub Court, Sankarankovil to be tried along with H.M.O.P.No.138 of 2015.

2. Heard Mr.T.S.Mohamed Mohideen, learned counsel appearing for the petitioner and Mr.G.Thalaimutharasu, learned counsel appearing for the respondent.

3. The marriage of the petitioner and the respondent was solemnized on 06.11.1997 and during their wedlock, the petitioner had delivered two children, namely, Vijayakumar and Aarthi and now the children are under the care and custody of the petitioner. In this circumstance, on account of matrimonial dispute, they have been separated themselves and living separately. In the meanwhile, the respondent had filed H.M.O.P.No.35 of 2012 on the file of the Principal Sub Court, Tenkasi seeking the relief of divorce as against the petitioner herein. She had entered appearance and



filed her counter also disputing the allegations levelled against her in the matrimonial proceedings. Thereafter, she had filed a police complaint as against the respondent on 07.03.2004. Based on her complaint, both parties were called to the police station and an enquiry was conducted. In the meantime, the petitioner had filed an application in I.A.No.31 of 2015 in H.M.O.P.No.35 of 2012 to mark the complaint as one of the documents in the matrimonial proceedings. However, that petition was dismissed by the learned Principal Subordinate Judge, Tenkasi on 31.03.2015. Challenging the said order, the petitioner had filed a revision petition in C.R.P(MD)No.1386 of 2015 before this Court. While disposing that revision petition, this Court has directed the learned Principal Subordinate Judge, Tenkasi to dispose of the matrimonial proceedings in H.M.O.P.No.35 of 2012 within two months from the date of receipt of the document from the police station.

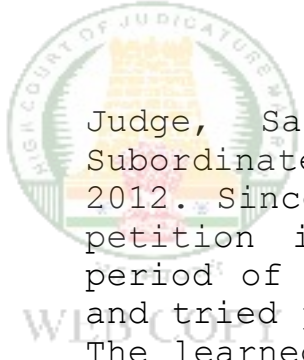
4. Now, Mr.G.Thalaimutharasu, learned counsel appearing for the respondent has submitted that the time limit prescribed by this Court is going to be expired. Under this circumstance, he has submitted that the transfer of matrimonial proceedings in H.M.O.P.No.138 of 2015 might not be ordered, as the petition in H.M.O.P.No.35 of 2012 is ripen for trial.

5. It is brought to the notice of this Court by Mr.T.S.Mohamed Mohideen, learned counsel appearing for the petitioner that the petitioner herself had filed a petition in H.M.O.P.No.138 of 2015 seeking the relief of restitution of conjugal rights on the file of the learned Principal Subordinate Judge, Sankarankovil. He has submitted that for taking fair decision, the petition in H.M.O.P.No.35 of 2012 pending on the file of the Principal Sub Court, Tenkasi might be ordered to be transferred to the file of the learned Principal Subordinate Judge, Sankarankovil to be tried along with H.M.O.P.No.138 of 2015.

6. However, this Court finds that instead of transferring H.M.O.P.No.35 of 2012 to the file of the Principal Sub Court, Sankarankovil from the file of the Principal Sub Court, Tenkasi, this Court consider that it might be expedient to transfer the matrimonial proceedings in H.M.O.P.No.138 of 2015 to the file of the Principal Sub Court, Tenkasi from the file of the Principal Sub Court, Sankarankovil to be tried along with H.M.O.P.No.35 of 2012.

7. Keeping in view of this fact, this Court finds that the petition filed by the petitioner may be allowed by ordering transfer of H.M.O.P.No.138 of 2015 to the file of the learned Principal Subordinate Judge, Tenkasi.

8. Accordingly, this Transfer Petition is allowed and the matrimonial proceedings in H.M.O.P.No.138 of 2015 is ordered to be transferred from the file of the learned Principal Subordinate



Judge, Sankarankovil to the file of the learned Principal Subordinate Judge, Tenkasi to be tried along with H.M.O.P.No.35 of 2012. Since this Court had already granted time to dispose of the petition in H.M.O.P.No.35 of 2012, this Court extends further period of three months. Both petitions shall be clubbed together and tried jointly and disposed of within a period of three months. The learned Principal Subordinate Judge, Sankarankovil is directed to transmit the entire records relating to the proceedings in H.M.O.P.No.138 of 2015 to the transferee Court within a short span period of one week from the date of receipt of a copy of this order. On receipt of the records from the transferor Court, the transferee Court is also directed to dispose of the matrimonial proceedings in H.M.O.P.No.35 of 2012 along with H.M.O.P.No.138 of 2015 within a short span of time of three months thereafter. The learned Principal Subordinate Judge, Tenkasi is directed not to proceed with the matrimonial proceedings in H.M.O.P.No.35 of 2012 till the records relating to H.M.O.P.No.138 of 2015 is received. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sub Judge,
Tenkasi.
2. The Principal Sub Judge,
Sankarankovil.

+ 1 CC TO M/S.T.S.MOHAMED MOHIDHEEN, ADVOCATE IN SR NO. 66249
+ 1 CC TO M/S.G.THALAIMUTHARASU, ADVOCATE IN SR NO. 66161

PS

TE/MGM-SS/ : 26/11/2015 : 3P/5C

Tr.C.M.P (MD) No.410 of 2015
and
M.P (MD) No.1 of 2015
19.11.2015