



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2015

CORAM:

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

Tr.C.M.P. (MD) .No.48 of 2015 and

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

Thamaraiselvi

: Petitioner

Vs.

B. Antonyraj

: Respondent

Prayer: This Transfer CMP is filed under Section 24 of CPC praying to withdraw O.S.No.35 of 2014 on the file of Family Court, Coimbatore and transfer the same to the file of the Sub Court, Kovilpatti.

For Petitioner : Mr. N.S. Ramakrishna Dass

For Respondent : Mr. J. Ashok
for M/s. Jeyapaul Associates

ORDER

This petitioner, who is the respondent in O.S.No.35 of 2014 filed this petition, to transfer O.S.No.35 of 2014 from the file of Family Court, Coimbatore to Sub Court, Kovilpatti or any other competent Court.

2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 16.05.2010, as per Hindu Rites and Customs. After marriage, both were residing in matrimonial home at Coimbatore. A male child was born on 26.12.2011 in the wedlock. Subsequently, the child was died on 29.12.2011. Due to mis-understanding between the petitioner and the respondent, the respondent filed O.S.No.35 of 2014, on the file of the Family Court, Coimbatore, to declare the marriage as null and avoid. The petitioner filed HMOP.No.28 of 2015 before the Sub Court, Kovilpatti, for restitution of conjugal rights.

3. Now, the petitioner is residing with her mother at Kayatharu, Tuticorin District. The distance between Kayatharu, Tuticorin District and Coimbatore is approximately 400 Kilometers and it is very difficult for the petitioner to travel each and every hearing to attend O.S.No.35 of 2014, on the file of the Family Court, Coimbatore. Further, she is not having any independent income. The petitioner is only depending on her mother for her day-to-day expenses, including the travel expenses. In the circumstances, the petitioner has filed the present petition to transfer O.S.No.35 of 2014, on the file of the Family Court, Coimbatore, to Sub Court, Kovilpatti or any other competent Court.

4. The respondent entered appearance through his counsel and he did not file any counter affidavit. The learned counsel for the respondent <https://www.secdel.gov.in/services/> will not be difficult for the petitioner, to attend hearing at Family Court, Coimbatore, and he prayed for dismissal of this Transfer C.M.P.



5. Heard the learned counsel appearing for both parties.

6. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. In view of the submissions made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both O.S.No.35 of 2014 and HMOP.No.28 of 2015 are to be tried together in the same Court. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and O.S.No.35 of 2014, pending on the file of Family Court, Coimbatore is hereby withdrawn and transferred to the file of Sub Court, Kovilpatti to be tried along with H.M.O.P.No.28 of 2015 filed by the petitioner, if the same is not yet disposed of. The learned Family Court Judge, Coimbatore, is directed to send the case bundles to the Sub Court, Kovilpatti immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Judge, Family Court, Coimbatore.
2. The Subordinate Judge, Kovilpatti.

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to MR.N.S.Ramakrishna Dass, Advocate SR.No.31077

Tr.C.M.P.(MD).No.48 of 2015 and
M.P.(MD).No. 1 of 2015
15.06.2015

trp

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