



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2015

CORAM

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.64 of 2015 and
M.P(MD)No.1 of 2015

Prema alias Gomathi

... Petitioner

Vs.

N. Senthilkumar

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer Original Petition in HMOP.No.271 of 2014 on the file of Family Court, Thirunelveli to be heard along with HMOP.No.23 of 2015 on the file of Principal Sub Court, Tenkasi.

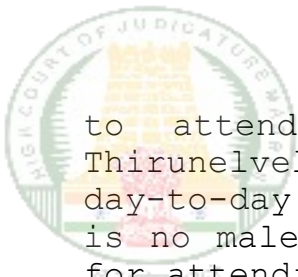
For Petitioner : Mr.T.s. Mohammed Mohaideen
For Respondent : T. Ramasamy

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer HMOP.No. 271 of 2014 from the file of Family Court, Thirunelveli, to Principal Sub Court, Tenkasi, to be tried along with HMOP.No.23 of 2015, pending on the file of Principal Sub Court, Tenkasi.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 03.09.2009, as per Hindu Rites and Customs. A male child was born in the wedlock on 15.03.2011. After marriage, both were living together in the matrimonial home at Chennai. Due to mis-understanding, the petitioner was sent out from matrimonial home, by the respondent and his parents. The respondent filed HMOP.No.191 of 2013, on the file of Additional Subordinate Court, Thirunelveli, for divorce. Subsequently, the said HMOP was transferred to Family Court, Thirunelveli and re-numbered as HMOP.No.271 of 2014, and the same is pending before the Family Court, Thirunelveli. Thereafter, the petitioner filed HMOP.No.23 of 2015, on the file of Principal Subordinate Court, Tenkasi, for restitution of conjugal rights.

3. Now, the petitioner is staying with her parents along with minor child at Tenkasi. The petitioner stated that the distance between Tenkasi and Thirunelveli is about 55 Kilometers and it is very difficult for the petitioner to travel each and every hearing



to attend H.M.O.P.No.271 of 2014, before the Family Court, Thirunelveli. The petitioner is depending on her parents for her day-to-day expenses including the travel expenses. Further, there is no male member to accompany the petitioner to go to Thirunelveli for attending each and every hearing.

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4. In such circumstances, the petitioner filed this petition to transfer the aforesaid HMOP No.271 of 2014, filed by the respondent, from Family Court, Thirunelveli, to Principal Subordinate Court, Tenkasai, to be tried along with HMOP.No.23 of 2015, on the file of Principal Subordinate Court, Tenkasi.

5. The respondent filed counter affidavit denying the various allegations made by the petitioner. According to the respondent, the petitioner has filed this Transfer CMP only to harass the petitioner, by multiplying the proceedings in matrimonial issue and hence, he prayed for dismissal of this Transfer CMP.

6. Heard the learned counsel appearing for both parties.

7. 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 H.M.O.P.No.271 of 2014 and HMOP.No.23 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.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.273 of 2014 on the file of the Family Court, Thirunelveli is hereby withdrawn and transferred to the file of Principal Subordinate Court, Tenkasi, to be tried along with H.M.O.P.No.23 of 2015, filed by the petitioner, if the same is not yet disposed of. The learned Family Court Judge, Thirunelveli, is directed to send the case bundles to the transferee Court, within a week from the date of receipt of a copy of this order. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

trp

To

<https://hcservices.ecourts.gov.in/hcservices/>

1.The Judge, The Family Court, Thirunelveli.



2. The Principal Sub Judge, Tenkasi.

3. The Section Officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to MR.T.S.Mohamed Mohidheen, Advocate in sr NO.33138

+1cc to Mr.Ananth C.Rajesh, Advocate in Sr No.33334

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