



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.06.2015
CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.65 of 2015 and
M.P(MD)No.1 of 2015

Kirithika Devi

... Petitioner/Respondent
Vs.

Palani Karthik

... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in HMOP.No.56 of 2015 on the file of the Family Court, Madurai and transfer the same to the learned Principal Subordinate Court, Thanjavur.

For Petitioner : Mr.S.Ramu

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer HMOP.No.56 of 2015 from the file of Family Court, Madurai, to Principal Subordinate Court, Thanjavur.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 15.09.2013, as per Hindu Rites and Customs. From the date of marriage, both the petitioner and respondent were not living together. Due to mis-understanding between the petitioner and respondent, the petitioner filed M.C.No.41 of 2014, before the learned Judicial Magistrate-II, Thanjavur, under the Protection of Women from Domestic Violence Act, seeking for protection and maintenance. Thereafter, the respondent tortured the petitioner regularly. The parents of the petitioner brought her to their house. The petitioner filed HMOP.No.32 of 2015, for temporary separation, on the file of Principal Subordinate Court, Thanjavur. Subsequently, the respondent filed HMOP.No.56 of 2015, before the Family Court, Madurai, for restitution of conjugal rights, on false allegations.

3. Now, the petitioner is staying with her parents at Thanjavur. Her parents are aged persons and suffering from old age problems. The distance between Thanjavur and Madurai is about 150 Kms and it is very difficult for her to attend each and every hearing at Madurai. Further, she is not having any independent income. The petitioner is only depending on her parents for her day to day expenses, including the travel expenses. Further, the appearance of the petitioner for each and every hearing is not necessary before the Sub Court.

4. In such circumstances, the petitioner filed this petition to transfer the aforesaid HMOP.No.56 of 2015, filed by the respondent before the Family Court, Madurai, to Principal Subordinate Court, Thanjavur.



5. Heard the learned counsel for the petitioner. Despite service of notice, the respondent has not chosen to appear either in person or through counsel.

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 H.M.O.P.No.32 of 2015 and HMOP.No.56 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, the Transfer CMP is allowed and HMOP. No.56 of 2015, pending on the file of Family Court, Madurai, is ordered to be withdrawn and transferred to the file of Principal Subordinate Court, Thanjavur to be tried along with HMOP.No.32 of 2015, filed by the petitioner, if the same is not yet disposed of. The learned Family Court Judge, Madurai, is directed to transmit the entire records pertaining to the case in HMOP.No.56 of 2015, to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. 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(RTI)

/True copy/

Sub Assistant Registrar

To

1. The Family Court, Madurai

2.The Principal Subordinate Court, Thanjavur.

Copy to:

The Section Officer,

VR Section,

Madurai Bench of Madras High Court,

Madurai.

+1cc to MR.S.Ramu, Advocate SR.No.31011

Tr.C.M.P (MD) No.65 of 2015 and

M.P (MD) No.1 of 2015

16.06.2015

trp

PA/PPS/30.06.2015/2P/5C