



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.72 of 2015

and

M.P(MD)No.1 of 2015

Ms.R.Neela

... Petitioner/Respondent

Vs.

Mr.Palani Vinaygam

... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in H.M.O.P.No.25 of 2013 pending on the file of the Subordinate Court at Srivilliputtur to the Family Court, Chennai.

For Petitioner : Mr.M.Vivekanandan

For Respondent : Mr.G.Marimuthu

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.25 of 2013, pending on the file of the Subordinate Court at Srivilliputtur, to the Family Court, Chennai.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 24.10.2011, as per Hindu Rites and Customs. A female child was born on 31.07.2012, in the wedlock. Right from the marriage, the petitioner was ill-treated by the respondent and his parents. The petitioner was never allowed to accompany the respondent in the matrimonial home. According to the petitioner, the matrimonial life was something like Confinement. Knowing this, the parents of the petitioner brought her to their house.

3. Now she is living with her parents at Chennai from 01.01.2012. She gave various complaints against the respondent and his family members. She filed H.M.O.P.No.3443 of 2013 before the Family Court, Chennai, for divorce. While so, the respondent filed H.M.O.P.No.25 of 2013, before the Subordinate Court, Srivilliputhur, for Restitution of Conjugal Rights.

4.The petitioner is residing at Chennai with her aged parents. The distance between Chennai and Srivilliputhur is more than 500 kms. She is not having any independent income and there is no one in the family to accompany her to go to Srivilliputhur for each and every hearing. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Chennai.

5.Now, the petitioner/wife filed this petition to transfer the aforesaid HMOP No.25 of 2013, filed by the respondent/Husband, before the Subordinate Court, Srivilliputhur, to the Family Court, Chennai, to be tried along with H.M.O.P.No.3443 of 2013.



6. Heard the learned counsel appearing for the petitioner. The respondent has entered appearance through Advocate and he did not file any counter affidavit.

7. 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.25 of 2013 and H.M.O.P.No.3443 of 2013 are to be tried together in the same Court. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference. 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.25 of 2013 on the file of the Subordinate Court, Srivilliputhur, is hereby withdrawn and transferred to the file of the Family Court, Chennai, to be tried along with H.M.O.P.No.3443 of 2013, filed by the petitioner, if the same is not yet disposed of. The learned Subordinate Judge, Srivilliputhur, is directed to send the case bundles to the Family Court, Chennai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

9. The H.M.O.P, is pending from the year 2013. The learned Family Court Judge, Chennai, is directed to dispose the cases as expeditiously as possible, in any event not later than 31st January 2016.

Sd/-

Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar

To

1.The Subordinate Court,
Srivilliputhur.

2.The Family Court,
Chennai.

Copy to:

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

+1cc to Mr.M.Vivekanandan, Advocate SR.No.31058

+1cc to Mr.G.Marimuthu, Advocate SR.No.31050

Tr.C.M.P. (MD)No.72 of 2015
16.06.2015

am

PA/IV/09.07.2015/2P/6C