



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.82 of 2015

and

M.P(MD)No.1 of 2015

J.Chitra Devi

... Petitioner

Vs.

M.Jayaprakash

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in F.C.O.P.no.455 of 2014 pending before the Family Court, Salem and transfer the same to the file of Sub Court, Theni and to be tried along with case in H.M.O.P.No.194 of 2014 on the file of the Sub Court, Theni.

For Petitioner

: Mr.K.Sudalaiyandi

For Respondent

: Mr.S.Venkatesh

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in F.C.O.P.no.455 of 2014 pending before the Family Court, Salem and transfer the same to the file of Sub Court, Theni and to be tried along with case in H.M.O.P.No.194 of 2014 on the file of the Sub Court, Theni.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 08.06.2014, as per Hindu Religious Rites and Customs. After the marriage, both the petitioner and the respondent lived together in the matrimonial home at respondent's house. Due to some misunderstanding, the petitioner is staying with her parents at Theni. The respondent filed F.C.O.P.No.455 of 2014 before the Family Court, Salem to declare the marriage as null and void making false allegations against the petitioner. The petitioner filed H.M.O.P.No.194 of 2014 before the Sub Court, Theni for Restitution of Conjugal Rights. She also filed I.A.No.85 of 2014 for interim maintenance.

3. Now, the petitioner is staying at Theni along with her parents. According to the petitioner, the distance between Theni and Salem, is 250 kms and it is very difficult for the petitioner to travel each and every hearing to attend F.C.O.P.No.455 of 2014, before the Family Court, Salem. The petitioner is not having any



independent income and she has to spend huge amount to appear before the Family Court, Salem. She is depending on her parents for her day-to-day expenses including travel expenses.

4. In such circumstances, the petitioner filed this petition to transfer the aforesaid F.C.O.P.No.455 of 2014, filed by the respondent husband, before the Family Court, Salem, to Sub Court, Theni, to be tried along with HMOP.No.194 of 2014.

5. The respondent entered appearance through counsel. He did not file any counter. The learned counsel for the respondent represented that the case may be transferred to Dindigul instead of Theni and it is very difficult for the respondent to travel from Salem to Theni for each and every hearing and therefore, prayed for dismissal of the Tr.C.M.P., or to transfer to Family Court, Dindigul.

6. Heard the learned counsel appearing for 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, the F.C.O.P.No.455 of 2014 and H.M.O.P.No.194 of 2014, 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 F.C.O.P.No.455 of 2014, on the file of the Family Court, Salem, is hereby withdrawn and transferred to the file of the Sub Court, Theni, to be tried along with H.M.O.P.No.194 of 2014 filed by the petitioner, if the same is not yet disposed of. The learned Family Court Judge, Salem, is directed to send the case bundles to the Sub Court, Theni, immediately. 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

ASST REGISTRAR - RTI

TRUE COPY

SUB ASST REGISTRAR

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To

1. The Judge, Family Court, Salem.

2. The Subordinate Judge, Theni.

Copy to : The Section Officer, VR SECTION

Madurai Bench of Madras High Court, Madurai.

1cc to MR. K. SUDALAIYANDI, ADV SR: 33859