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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.06.2015

CORAM
THE HONOURABLE MS.JUSTICE V.M. VELUMANI

Tr.C.M.P. (MD) .Nos.146 and 100 of 2013
and
M.P. (MD) .Nos. 1 and 1 of 2013

Tamilmani : Petitioner in Transfer
CMP(MD).No. 146 of 2013
Respondent in Transfer
CMP(MD).No. 100 of 2013

Vs.

J. Balamurugan : Petitioner in Transfer
CMP(MD).No. 100 of 2013
Respondent in Transfer
CMP(MD).No. 146 of 2013

Prayer in Transfer CMP(MD).No.146 of 2013: This Transfer CMP is filed under Section 24 of CPC praying to withdraw and transfer HMOP.No.213 of 2009 on the file of the Principal Subordinate Court, Trichy to Principal Subordinate Court, Kumbakonam to be tried along with HMOP.No.127 of 2012 on the file of Principal Subordinate Court, Kumbakonam.

Prayer in Transfer CMP(MD).No.100 of 2013: This Transfer CMP is filed under Section 24 of CPC praying to withdraw and transfer HMOP.No.127 of 2012 on the file of Principal Subordinate Court, Kumbakonam. to the Principal Subordinate Court, Trichy.

For Petitioner : Mr.K.Kumaravel in Tr.CMP.146/13 and
respondent in Tr.CMP(MD).No.100/2013

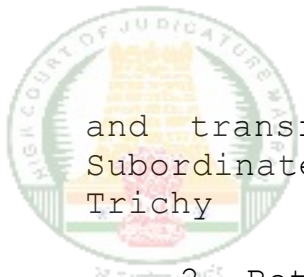
For Respondent : Mr.T.Senthilkumar in Tr.CMP.146/13 and
petitioner in Tr.CMP(MD).No.100/2013

C O M M O N O R D E R

Transfer CMP(MD).No.146 of 2013 is filed by wife to withdraw and Transfer HMOP.No.213 of 2009, from the file of the Principal Subordinate Court, Trichy to Principal Subordinate Court, Kumbakonam to be tried along with HMOP.No.127 of 2012, on the file of Principal Subordinate Court, Kumbakonam.

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Transfer CMP No.100 of 2013 is filed by husband to withdraw



and transfer HMOP.No.127 of 2012 on the file of Principal Subordinate Court, Kumbakonam, to Principal Subordinate Court, Trichy

2. Both the parties and issues are one and the same. Hence, both the petitions are taken up together and disposed of, by this common order.

3. For the sake of convenience, the wife is referred to as the petitioner and the husband is referred to as the respondent.

4. The marriage between the petitioner and the respondent was solemnized on 07.06.2007, as per Hindu Rites and Customs. After marriage, both were living together in matrimonial home at Manapuram, Trichy District. Due to mis-understanding between the petitioner and respondent, the petitioner was sent out from matrimonial home. The respondent filed HMOP.No.213 of 2009, before the Principal Sub-court, Trichy, for divorce. Whiles the respondent filed HMOP before the Principal Sub-Court, Trichy. At that time the petitioner is residing at Trichy. But, the respondent mentioned the address in the HMOP that the petitioner is residing at Ammapettai, Thanjavur District. Therefore, notice and summons was returned with an endorsement "No such addressee". Therefore, the Principal Sub-court, Trichy, passed an ex parte order in divorce petition, on 26.08.2009. Subsequently, the petitioner filed a petition for setting aside the ex parte decree and it was allowed on 02.07.2012. Thereafter, the petitioner also filed HMOP.No.127 of 2012, before the Principal Sub-court, Kumbakonam, for restitution of conjugal rights.

5. Now, the petitioner is residing at Ammapettai, Puthur (via), Papanasam Taluk, Thanjavur District. According to the petitioner, the distance between Ammapettai and Trichy is about 160 kms and it is very difficult for the petitioner to travel each and every hearing to attend HMOP.No.213 of 2009, before the Principal Sub-court, Trichy. Further, the petitioner is not having any independent income and the respondent is an influential person with money and muscle power. The petitioner is facing threat to her life at the time of attending Principal Sub-Court at Trichy.

6. In such circumstances, the petitioner filed Tr.C.M.P.(MD). No.146 of 2013 to transfer HMOP.No.213 of 2009, from the file of Principal Sub-Court, Trichy, to Principal Sub-Court, Kumbakonam, to be tried along with H.M.O.P.No.127 of 2012.

7. The respondent has filed Transfer CMP(MD).No.100 of 2013, before this Court, to transfer HMOP.No.127 of 2012 from the file of Principal Sub-Court, Kumbakonam, to Principal Sub-Court, Trichy, on the grounds that the petitioner is an influential person at Kumbakonam with money and muscle power. Therefore, there is no safety for the respondent to attend the case before the Principal



Sub-Court, Kumbakonam.

8. Heard the learned counsels appearing for the parties.

9. In view of the submissions made by the learned counsel for both sides 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.213 of 2009 and HMOP.No.127 of 2012 are to be tried together in the same Court.

10. It is well settled law that whenever, the transfer petition 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.

11. Accordingly, the Transfer CMP.No.146 of 2013 is allowed and H.M.O.P.No.213 of 2009, on the file of the Principal Sub-Court, Trichy, is hereby withdrawn and transferred to the file of the Principal Sub-Court, Kumbakonam, to be tried along with H.M.O.P.No.127 of 2012 filed by the petitioner, if the same is not yet disposed of. The learned Principal Subordinate Judge, Trichy, is directed to send the case bundles to the Principal Sub-Court, Kumbakonam, immediately. The Registry is also directed to send back the papers that are pending before the Registry. As and when the records received, the learned Principal Subordinate Judge, Kumbakonam is directed to dispose of both the HMOPs as expeditiously as possible, in any event not later than 31st January 2016.

12. In view of the above, the Transfer CMP.No.100 of 2013 filed by the respondent / husband is dismissed. No costs. Consequently, Miscellaneous Petitions are closed.

Sd/
ASSISTANT REGISTRAR (T&P)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

trp

To

1. The Principal Sub Judge, Kumbakonam
2. The Principal Sub Judge, Trichy.

- + 1 CC to Mr. K.Kumaravel, ADV SR.No.34219
- + 1 CC to Mr.T.Senthilkumar, ADV SR.No.34566

Tr.C.M.P. (MD) .Nos.146 and 100 of 2013 and
M.P. (MD) .Nos. 1 and 1 of 2013

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