



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2015

C O R A M

THE HONOURABLE Mr.JUSTICE P.DEVADASS

Tr.C.M.P.(MD).Nos.191 and 352 of 2013
and
M.P.(MD).Nos.1 and 1 of 2013

Shalini ...Petitioner in both cases

Vs

U.Saranyan ...Respondent in both cases

Petitions filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.268 of 2013 and G.W.O.P.No.409 of 2013 on the file of the Family Court, Coimbatore transfer the same to the file of the learned Subordinate Judge, Karur or any other Competent Court.

For Petitioner in	
both cases	... Mr.AL.Ganthimathi
For Respondent in	
both cases	... Mr.M.Karthikeyavenkitachalapathi

COMMON ORDER

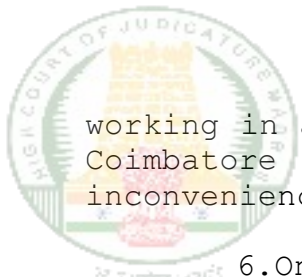
The petitioner, who is the wife of the respondent seeks transfer of H.M.O.P.No. 268 of 2013 filed by her husband under Section 9 of Hindu Marriage Act for restitution of conjugal rights as well as G.W.O.P.No.409 of 2013 filed by her husband, from the Family Court, Coimbatore to the Sub-ordinate Court, Karur.

2.The petitioner and the respondent are spouses. They were blessed with a male child. He is 9 years old boy. He is studying 3rd standard in a school in Karur. The boy's father is a Software Engineer, employed as such in a Software Company in Coimbatore.

3.Already the petitioner had filed H.M.O.P.No.98 of 2012 for divorce on the ground of cruelty, in the Subordinate Court, Karur. In both the cases, pleadings were completed.

4.At this juncture, petitioner wants transfer of the two matrimonial cases from the Family Court, Coimbatore to the Sub Court, Karur.

5.According to the learned counsel for the petitioner, now the petitioner is in Karur. She is having patronage of her parents. Her son is studying in a school in Karur. To eke out his livelihood, she is



working in a private school in Karur. In such circumstances, her going to Coimbatore and attend the matrimonial case, put her to lot of inconvenience in so many ways.

6. On the other hand, the learned counsel for the respondent would submit that it is a ploy by the wife to settle scores with her husband. The learned counsel for the respondent also submitted that the boy is not well, he has to be regularly taken to Coimbatore for treatment. Now, the petitioner is well off. She is above want. In the circumstances, there is no valid reason for transfer of the case.

7. I have anxiously considered the rival submissions and perused the materials on record.

8. Matrimonial causes are result of matrimonial discordance. By quirk of events situations, such matrimonial matters came to be filed in different Courts and Districts or even in different States.

9. In such circumstances, the Court has to consider the plight of the spouses, cannot be weighed in golden scale. The Court should understand the ground reality.

10. Now in this case, the respondent is well positioned placed in Coimbatore. Now, due to the issues pertaining to the spouses, the petitioner has to come her parents house in Karur. She is a lady. She cannot wander. She must have a roof with safety. Now she has no other go. She has gone to Karur because of the situation in her matrimonial home. Now, the petitioner is a mother. Her son is studying in a school in Karur. She has to prepare the boy everyday to go to school. Further, she is working in a school in Karur.

11. A woman living in affluent circumstances, cannot be an answer to her sufferings due to the matrimonial case at a far off place. Money is not the point. Mental peace is the point. The Court also has to consider. If the transfer request is not accepted, who will suffer more. It must also consider the sufferings of the husband also. Now, balancing the factors pertaining to the petitioner and the respondent/husband, the difficulties to which the petitioner put to out weigh the difficulties or inconvenience to which the respondent may undergo. In striking a balance sheet, we find a valid ground for transfer.

12. The learned counsel for the respondent pointed out that the G.W.D.O.P is to be dealt with by a District Judge and a Subordinate Judge cannot deal a G.W.D.O.P.

13. In such circumstances, it is good for both to face the case in one Court.

14. In the circumstances, ordered as under;

i) H.M.O.P.No.268 of 2013 and G.W.D.O.P.No.409 of 2013 from Family Court, Coimbatore are transferred to the file of the Court of District Judge, Karur.

ii) the H.M.O.P.No.98 of 2012 is transferred to the Sub-Court, Karur to the District Court, Karur.



iii) the transferor Court shall send the case records to the transferee Court without further delay.

15. In view of the future of others and welfare of the child, it is paramount, the learned District Judge, Karur shall initiate and make conciliatory efforts to solve the problem.

16. The learned District Judge, Karur will make out all efforts to dispose of the matrimonial case at an early date.

17. Accordingly, the Tr.C.M.Ps are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Family Court,
Coimbatore.

2. The District Court,
Karur.

3. The Sub-Judge,
Karur.

+1cc to Mr. AL. Ganthimathi, Advocate SR.No.44278

+1cc to Mr. M. Karthikeyavenkitachalapathi, Advocate SR.No.44326

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