



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2015

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.340 of 2013

and

M.P(MD)No.1 of 2013

Parameswari

...Petitioner/Respondent

Vs.

V.Thangakamu

...Respondent/Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 r/w 151 of Civil Procedure Code to withdraw the case on the file of the Family Court III at Chennai in H.M.O.P.No.3059 of 2013 and transfer the same to the Sub-Court, Periyakulam.

For Petitioner : Mr.R.Senthilkumar

For Respondent : No appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case on the file of the Family Court III at Chennai in H.M.O.P.No.3059 of 2013 and transfer the same to the Sub-Court, Periyakulam.

2. The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 29.06.2012. After the marriage, the petitioner lived with the respondent and both were residing at Chennai. Due to misunderstanding between them, the petitioner left the matrimonial home and came to her parents home and now she is residing at Periyakulam. The respondent/husband filed H.M.O.P.No.3059 of 2013 before the Family Court III at Chennai. The petitioner has no relatives in Chennai. She is depending upon her parents. She is aged about 25 years and therefore, she finds it very difficult to go to Chennai for each and every hearing to attend the Family Court, Chennai. For these reasons, she filed a transfer petition to transfer the H.M.O.P.No.3059 of 2013 on the file of the Family Court III, Chennai to the file of Sub Court, Periyakulam.

3.The respondent is appearing party-in-person and filed a counter affidavit. There is no appearance for the respondent on 13.04.2015 as well as today. In the counter affidavit, he opposed the transfer of H.M.O.P.No.3059 of 2013 from the file of Family Court III, Chennai to the file of Sub Court, Periyakulam on the ground that the petitioner's uncle A.M.Ponmanicholan is an Advocate practicing in Madurai and Theni District. The said A.M.Ponmanicholan already had criminal case against him and he will influence the proceedings of H.M.O.P., if the same is conducted at Periyakulam. The respondent is permanent resident of Chennai and it will be very difficult for him to attend each and every hearing at Periyakulam and therefore, prayed for dismissal of the Tr.C.M.P.,



4. Heard the learned counsel for the petitioner.

5. The petitioner and the respondent have made various allegations against each other. It is not necessary to consider the same for disposal of the Tr.C.M.P. The petitioner has stated that she is being a lady aged 25 years. She is unable to go to Chennai and attend every hearing in Family Court, Chennai and that she has no independent income and depending upon her parents for expenses.

6. On the other hand, the respondent opposed the transfer petition on the ground that it will be very difficult to attend each and every hearing at Periyakulam and the petitioner's uncle A.M.Ponmanicholan will influence the proceedings at Periyakulam. Both the reasons given by the respondent are untenable. The respondent need not appear in the Sub Court, Periyakulam each and every hearing. He can be represented by any Advocate and it is sufficient if he appears only at the time of trial to give evidence. On the other hand, the petitioner has to appear in person for every hearing before the Family Court, III, Chennai.

7. The respondent has not denied the averments made by the petitioner that she has no independent income to attend each and every hearing. The allegations of the respondent that the petitioner's uncle, who is an Advocate will influence the proceedings is baseless. 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.3059 of 2013 on the file of the Family Court III at Chennai is hereby withdrawn and transferred to the file of the Sub Court, Periyakulam, if the same is not yet disposed of. The learned Family Court III at Chennai is directed to send the case bundles to the file of the Sub Court, Periyakulam, 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 2013 is closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

1.The Judge, Family Court III, Chennai.

2.The Subordinate Judge, Periyakulam.

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

+1CC to M/s.R.Sethilkumar, Advocate in SR.18746

Tr.C.M.P. (MD)No.340 of 2013
15.04.2015

am

PBK 29/04/2015 ::2P-5C: