



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2015

CORAM:

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

Tr.C.M.P.(MD).Nos.411 and 469 of 2013

and M.P(MD).Nos 1 and 1 of 2013

A. Rajeswari

: Petitioner in Tr.CMP.411/13
Respondent in Tr.C.M.P.469/13

Vs.

K. Sukumar

: Respondent in Tr.CMP.411/13
Petitioner in Tr.CMP.469/13

Prayer in Tr.C.M.P.No.411 of 2013: This Transfer CMP is filed under Section 24 of CPC praying to withdraw and transfer the HMOP.No.96 of 2013 on the file of Sub Court, Srivilliputur to Sub Court, Thoothukudi.

Prayer in Tr.C.M.P.No.469 of 2013: This Transfer CMP is filed under Section 24 of CPC praying to withdraw and transfer the HMOP.No.313 of 2013 on the file of Sub Court, Tuticorin to Sub Court, Srivilliputur.

For Petitioner

in Tr.C.M.P.No.411 of 2013 &

: Mr. S.M. Mohan Gandhi

Respondent in Tr.C.M.P.No.469 of 2013

For Respondent

: M/s.Antony Michael Francis

in Tr.C.M.P.No.411 of 2013 &

Petitioner in Tr.C.M.P.No.469 of 2013

C O M M O N O R D E R

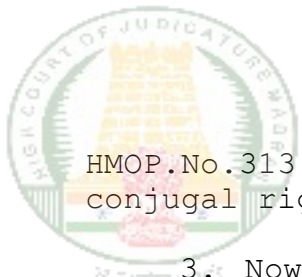
Transfer CMP. No. 411 of 2013 is filed by wife to withdraw and transfer HMOP.No.96 of 2013 on the file of Sub Court, Srivilliputur to Sub Court, Tuticorin.

2. Transfer CMP No.469 of 2013 is filed by husband to withdraw and transfer HMOP.No.313 of 2013 on the file of Sub Court, Tuticorin, to the Sub Court, Srivilliputur.

3. 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.

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

5. The marriage between the petitioner and the respondent was solemnized on 29.01.2012, as per Hindu Rites and Customs. A male child was born in the wedlock. Due to mis-understanding between the petitioner and the respondent, the petitioner was sent out from matrimonial home. Thereafter, the respondent filed HMOP.No.96 of 2013, before the Sub-court, Srivilliputhur, for divorce. Subsequently, the petitioner filed



HMOP.No.313 of 2013 before the Sub-court, Tuticorin, for restitution of conjugal rights.

3. Now, the petitioner is residing at Tuticorin with her parents along with minor child. According to the petitioner, the distance between Tuticorin and Srivilliputhur is about 120 kms and it is very difficult for the petitioner to travel for each and every hearing to attend HMOP.No.96 of 2013, before the Sub-court, Srivilliputur. Further, the petitioner is not having any independent income and she is only depending on her parents for her day-to-day expenses, including the travel expenses.

4. In such circumstances, the petitioner filed Tr.C.M.P.No.411 of 2013 to transfer HMOP.No.96 of 2013, from the file of Sub-Court, Srivilliputur, to Sub Court, Tuticorin, to be tried along with H.M.O.P.No.313 of 2013.

5. After receiving notice in HMOP.No.313 of 2013 on the file of the Sub-Court, Tuticorin, the respondent has filed Transfer CMP.No.469 of 2013, before this Court, to transfer the HMOP.No.313 of 2013 from the file of Sub-Court, Tuticorin to Sub-Court, Srivilliputhur.

6. Heard the learned counsels appearing for the parties.

7. 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.313 of 2013 and HMOP.No.96 of 2013 are to be tried together in the same Court.

8. 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.

9. Accordingly, the Transfer CMP.No.411 of 2013 is allowed and H.M.O.P.No.96 of 2013 on the file of the Sub-Court, Srivilliputur, is hereby withdrawn and transferred to the file of the Sub Court, Tuticorin, to be tried along with H.M.O.P.No.313 of 2013 filed by the petitioner, if the same is not yet disposed of. The learned Subordinate Judge, Srivilliputur, is directed to send the case bundles to the Sub Court, Tuticorin, immediately. The Registry is also directed to send back the papers that are pending before the Registry.

10. In view of the above, the Transfer CMP.No.469 of 2013 filed by the respondent / husband is dismissed. No costs. Consequently, Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar



To

1. The Subordinate Judge, Tuticorin.
2. The Subordinate Judge, Srivilliputtur.

Copy to:

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

+1cc to Mr.S.M.Mohan Gandhi, Advocate SR.No.29822

+1cc to Mr.A.Antony Michael Francis, Advocate SR.No.30771

Tr.C.M.P. (MD) .Nos.411 and 469 of 2013
and M.P (MD) .Nos 1 and 1 of 2013
11.06.2015

trp

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