



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :31.03.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P(MD)No.366 of 2015

and

M.P(MD)No.1 of 2015

P.Saravanan

.. Petitioner

Vs.

G.Sivaranjani

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.2103 of 2015, on the file of Family Court, Chennai and transfer the same to the Family Court, Trichy.

For Petitioner : Mr.Muthupandi
for G.Ganesh Kumar
For Respondent : Mrs.Auxilia Peter

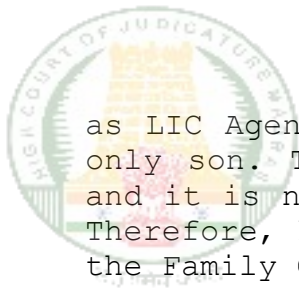
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.2103 of 2015, pending on the file of the Family Court, Chennai and transfer the same to the Family Court, Trichy.

2.Mr.Muthupandi, learned counsel, representing Mr.G.Ganesh Kumar, learned counsel appearing for the petitioner, seeks adjournment and the said request is rejected. On various occasions, there is no representation for the petitioner.

3.The petitioner herein is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 02.09.2004. After the marriage, both were living together in the matrimonial home at Trichy. A male child was born in the wedlock. Due to some dispute, the respondent left the matrimonial home on 19.08.2012. The petitioner filed G.W.O.P.No.73 of 2012 for custody of minor son and it was ordered, on 08.02.2013 by declaring the petitioner as guardian. Now, the child is completed 9 years and he is studying 5th Std., and the petitioner is maintaining him. Subsequently, the petitioner filed H.M.O.P.No.134 of 2015, on the file of the Family Court, Trichy, for divorce. The respondent filed H.M.O.P.No.2103 of 2015, on the file of the Family Court, Chennai, for restitution of conjugal rights. The respondent filed Tr.C.M.P.No.411 of 2015 to transfer H.M.O.P.No.134 of 2015 from the file of the Family Court, Trichy to the file of Family Court, Chennai. The said Tr.C.M.P., is pending.

4.According to the petitioner, he is residing at Trichy and working



as LIC Agent. The petitioner has to look after his parents and he is the only son. The distance between Trichy and Chennai is more than 300 kms and it is not possible for the petitioner to travel such a long distance. Therefore, he prayed for transfer H.M.O.P.No.2103 of 2015, on the file of the Family Court, Chennai to Family Court, Trichy.

WEB COPY

5. Heard the learned counsel appearing for the petitioner.

6. The respondent has filed counter affidavit and stating that she has already filed Tr.C.M.P.No.411 of 2015 before the Principal Bench of this Court to transfer H.M.O.P.No.134 of 2015 from the file of the Family Court, Trichy to the file of the Family Court, Chennai and the same is pending. She also denied the averments made in paragraph-5 of the Transfer Civil Miscellaneous Petition by the petitioner that G.W.O.P.No.73 of 2012 was ordered and declaring the petitioner as guardian. The respondent stated that G.W.O.P.No.73 of 2012 was dismissed for default on 13.01.2015. The respondent is residing at Chennai and she has given a complaint before the Protection Officer under Domestic Violence Act. The petitioner appeared before the Protection Officer and he has stated that he is ready to live with the respondent. Subsequently, he filed H.M.O.P.No.134 of 2015, for divorce. The respondent is residing at Chennai and It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008(9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)** and **AIR 2002 SC 396 (Sumita Singh Vs. Kumar Sanjay and another)**. Therefore, prayed for dismissal of the transfer petition.

7. In view of the submissions made by the learned counsel for the respondent that already she has filed the Tr.C.M.P.No.411 of 2015 to transfer H.M.O.P.No.134 of 2015 from the file of the Family Court, Trichy to the file of Family Court, Chennai, is pending before the Principal Bench of this Court and taking note of the various adjournments, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Family Court, Chennai.
2. The Judge, Family Court, Trichy.

+ 1 CC TO M/S.AUXILIA PETER, ADVOCATE IN SR NO. 18052

AM

TE/AN-MP/ : 22/04/2016 : 2P/4C

<https://hcservices.ecourts.gov.in/hcservices/>

TR.C.M.P (MD) No.366 of 2015
and
M.P (MD) No.1 of 2015
31.03.2016