



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.388 of 2015 and
M.P(MD)No.1 of 2015

Divya @ Mahalakshmi

... Petitioner

Vs.

Suryaprakash

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the HMOP.No.161 of 2014 from the file of the Sub Court, Uthamapalaym, to Sub Court, Dindigul.

For Petitioner : Mr.H. Velavadhas
For Respondent : Mr. G. Rajan

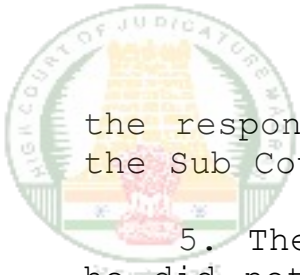
ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw and transfer the case in HMOP.No.161 of 2014 from the file of the Sub Court, Uthamapalaym, to Sub Court, Dindigul.

2. The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 11.11.2012, as per Hindu Rites and Customs. A female child was born in the wedlock. Due to mis-understanding between the petitioner and respondent, the respondent filed HMOP.No.161 of 2014 on the file of the Sub Court, Uthamapalayam, for divorce. Thereafter, the petitioner filed HMOP.No.134 of 2015, before the Sub Court, Dindigul, for restitution of conjugal rights and the same is pending.

3. Now, the petitioner is staying with her age old parents at Vathalakundu, along with minor child. The distance between Vathalakundu and Uthamapalayam is about 80 Kms and it is very difficult for the petitioner to travel for each and every hearing at Uthamapalayam, along with minor child. Further, the petitioner is working and connected cases are also pending on the file of Sub Court, Dindigul.

<https://hcservices.courts.gov.in/hcservices/> In such circumstances, the petitioner / wife filed this petition to transfer the aforesaid HMOP No.161 of 2014 filed by



the respondent / husband before the Sub Court, Uthamapalayam, to the Sub Court, Dindigul.

5. The respondent entered appearance through his counsel and he did not file any counter affidavit, even after taking several adjournments. The learned counsel for the respondent contended that it will not be difficult for the petitioner, to attend hearing at Sub Court, Uthamapalayam and he prayed for dismissal of this Transfer C.M.P.

6. It is well settled law that whenever, the transfer petition is filed in matrimonial disputes, the convenience of the wife shall be given preference. In view of the submissions made by the learned counsel for the petitioner 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.161 of 2014 and HMOP.No.134 of 2015 are to be tried together in the same Court. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.161 of 2014 pending on the file of the Sub Court, Uthamapalayam, is hereby withdrawn and transferred to the file of the Sub Court, Dindigul, to be tried along with H.M.O.P.No.134 of 2015 filed by the petitioner, if the same is not yet disposed of. The Sub Court, Uthamapalayam, is directed to transmit the entire records pertaining to the case in HMOP.No.161 of 2014 to the transferee Court immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

trp

To

1. The Subordinate Judge, Uthamapalayam,
2. The Subordinate Judge, Dindigul.

Copy to:

The Section Officer,

Judicial Section, Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.G.Rajan, Advocate, SR No.7349

+1 cc to Mr.H.Velavadhas, Advocate, SR No.6951

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