



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2016

Coram:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Tr.C.M.P (MD) No.420 of 2015

and M.P (MD) No.1 of 2015

.. Petitioner

R.Elakkiya

-Vs-

T.Sathish

.. Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer H.M.O.P.No.161 of 2015 from the file of the Principal Sub Court, Trichy and transfer the same to the file of learned Principal Sub Court, Karur.

For Petitioner : Mr.K.P.S.Palanivel Rajan

For Respondent : Mr.B.Jameel Arasu

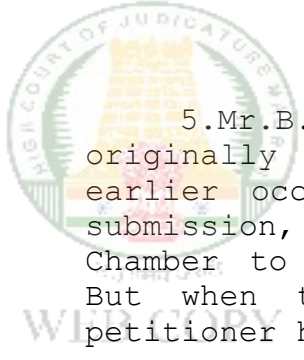
#### ORDER

This transfer petition is filed by the petitioner under Section 24 of the Code of Civil Procedure, 1908. The petitioner is none other than the wife of the respondent. As it is seen from the averments of the affidavit filed in support of the petition, the marriage between the petitioner and the respondent was solemnized on 29.03.2013 at Trichy. The said marriage was performed without the knowledge of the parents of the petitioner as it was a love marriage. After their marriage, they were living as a joint family from 18.07.2014 along with the respondent's parents and sister. What the petitioner would allege is that she had been subjected to torture and harassment using filthy language and she was also insisted to get money from her parents.

2. She came to know that the respondent was addict to Alcohol and since she was unable to tolerate all the evil activities of the respondent, she used to advise him to abandon his habit of drinking. However, she was beaten up by the respondent.

3. In this circumstance, the respondent had filed a petition in the month of June before the Principal Sub Court, Trichy which was numbered as H.M.O.P.No.161 of 2015 under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights. Thereafter, on account of the respondent's physical assault, monstrous behavior towards the petitioner, she was forced to file a petition in H.M.O.P.No.79 of 2015 under Section 13(1)(1a) of Hindu Marriage Act, 1955 for Dissolution of Marriage. Now the petition filed by the respondent for restitution of conjugal rights in H.M.O.P.No.161 of 2015 is pending on the file of the Principal Sub Court, Trichy. Since she being a lady, she finds it difficult to travel from Karur to Trichy for the purpose of attending the matrimonial proceedings in H.M.O.P.No.161 of 2015 and therefore, she has approached this Court with this petition to the petitione in H.M.O.P.No.161 of 2015, from the file of the Principal Sub Court, Trichy to the file of the Principal Sub Court, Karur to be tried along with H.M.O.P.No.79 of 2015.

4. Heard Mr.K.P.S.Palanivel Rajan, learned counsel appearing for the petitioner and Mr.B.Jameel Arasu, learned counsel appearing for the respondent.



5.Mr.B.Jameel Arasu, learned counsel appearing for the respondent had originally represented when the matter was taken up for hearing on an earlier occasion that there was a chance of settlement. Only on his submission, the parties in this petition were directed to appear in the Chamber to see that this matrimonial dispute is settled, amicably. But when the respondent had appeared along with his counsel, the petitioner had not chosen to appear.

6. Mr.B.Jameel Arasu, learned counsel appearing for the respondent submitted that there is a life threat from the side of the petitioner to the respondent and therefore, he apprehends danger to his life and hence, he has vehemently objected to transfer the matrimonial proceedings in H.M.O.P.No.161 of 2015 from the file of the Principal Sub Court, Trichy to the file of the Principal Sub Court, Karur.

7.This Court has considered the submission made by both the learned counsels and also considered the averments of the grounds of Transfer Civil Miscellaneous Petition.

8.Having been taken into consideration the relevant facts and circumstances and since the petitioner has reported that she finds it difficult to travel to Trichy all along from Karur, this Court is of the view that the matrimonial proceedings in H.M.O.P.No.161 of 2015 may be ordered to be withdrawn from the file of the Principal Sub Court, Trichy and transferred to the file of the Principal Sub Court, Karur.

9.Accordingly, the Transfer Civil Miscellaneous Petition is allowed and the petition in H.M.O.P.No.161 of 2015 is withdrawn from the file of the Principal Sub Court, Trichy and transferred to the file of the Principal Sub Court, Karur to be tried along with H.M.O.P.No.79 of 2015. The learned Principal Sub Judge, Trichy is directed to transfer the entire records relating to H.M.O.P.No.161 of 2015 to the file of the Principal Sub Court, Karur within a week's time from the date of receipt of a copy of this order. On receipt of the records, the transferee Court is directed to dispose the petition in H.M.O.P.No.161 of 2015 along with H.M.O.P.No.79 of 2015 as expeditiously as possible preferably within a period of six months, thereafter. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-  
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Sub Judge, Trichy.
- 2.The Principal Sub Judge, Karur.

+1 CC to Mr.K.P.S.PALANIVEL RAJAN, Advocate, SR No.5010  
+1 CC to Mr.B.JAMEEL ARASU, Advocate, SR No.6305

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