



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.424 of 2015

and C.M.P. (MD)No.1 of 20165

A.Syed Abdul Kade

... Petitioner/Respondent

Vs.

Mumthaha

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw G.W.O.P.No.158 of 2015 from the file of the III Additional District Court, Tirunelveli to Family Court, Chennai.

For Petitioner : Mr.R.Vijayakumar

For Respondent : No appearance

O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw G.W.O.P.No.158 of 2015 from the file of the III Additional District Court, Tirunelveli to the file of Family Court, Chennai.

2.The petitioner herein is the husband and the respondent is the wife. The marriage between the petitioner and the respondent was solemnized on 06.05.2004 and they were blessed with two children. Due to some dispute, both the husband and wife are living separately. Whiles, the respondent / wife filed a petition in G.W.O.P.No.158 of 2015 on the file of the III Additional District Court, Tirunelveli, seeking custody of the minor children. At present, the children are studying at Shree Gugans School at Chennai and the respondent / wife is also residing at Chennai. Therefore, he has come out with the present petition for transfer.

3.The learned counsel for the petitioner filed a typed set of papers enclosing the school fee receipts, which were paid by the petitioner / husband. The learned counsel submitted that as per Section 9(1) of the Guardian and Wards Act, the guardian original petition has to be filed where the minor child resides ordinarily.

4.The learned counsel for the respondent has entered appearance through counsel. However, today there is no representation.

5.Section 9(1) of the Guardian and Wards Act reads as follows:
<https://hcservices.ecourts.gov.in/hcservices/>



"9. Court having jurisdiction to entertain application.- (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides. If the application is with respect of the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in the place where he has property. If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly on conveniently by any other District Court having jurisdiction."

6.Considering the facts and circumstances of the case and also considering Section 9 of the Act and considering the fact that minor child and respondent are residing at Chennai, this Transfer Civil Miscellaneous Petition is ordered and G.W.O.P.No.158 of 2015 on the file of the III Additional District Court, Tirunelveli is hereby withdrawn and transferred to the file of the Family Court, Chennai. The learned III Additional District Court, Tirunelveli is directed to send the case bundles in G.W.O.P.No.158 of 2015 to the Family Court, Chennai. No costs. Consequently, M.P.is closed.

**Sd/-
Assistant Registrar**

/True copy/

Sub Assistant Registrar

To

1.The III Additional District Judge, Tirunelveli.

2.The Judge, Family Court, Chennai.

+one cc to M/s.R.Vijayakumar, Advocate in SR.NO.16226

Nbj

CSL/SKS-RR/11.04.2016 : 2p/4c

Tr.C.M.P. (MD)No.424 of 2015