



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2016

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.442 of 2015

and

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

Gomathi

... Petitioner

Vs.

P.Raja

... Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw H.M.O.P.No.39 of 2014 on the file of the Sub-Court, Periyakulam and transfer the same to the file of the Sub-Court, Dindigul and to be tried along with H.M.O.P.No.115 of 2015.

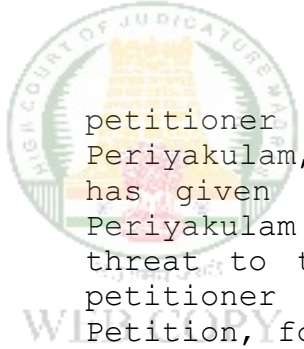
For Petitioner :Mr.R.Karunanidhi
For Respondent :Mr.A.Uthayakumar

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.39 of 2014 on the file of the Sub-Court, Periyakulam and transfer the same to the file of the Sub-Court, Dindigul to be tried along with H.M.O.P.No.115 of 2015.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 08.11.2010. A male child was born on 29.08.2011 in the wedlock. The respondent is working as a Mechanic at Kuwait. Due to dispute between the petitioner and the respondent, the respondent thrown out the petitioner and her son from the matrimonial home and filed H.M.O.P.No.54 of 2013 before the Subordinate Court, Periyakulam, for divorce with false allegations. Subsequently, the respondent withdrawn the divorce petition in H.M.O.P.No.54 of 2013 and thereafter, he filed another divorce petition in H.M.O.P.No.39 of 2014 before the Subordinate Court, Periyakulam. Thereafter, the petitioner filed maintenance petition in M.C.No.16 of 2014 on the file of the Judicial Magistrate Court, Nilakottai. The said petition was allowed, by order dated 30.04.2015. Subsequently, the petitioner filed revision petition before this Court, for enhancement of compensation and that petition was ordered.

3.According to the petitioner, she is residing at Nilakottai in a separate house nearby her mother's house. The family members of the petitioner have taken all the efforts to rejoin her with her husband, but all their efforts ended in vain. Therefore, she filed H.M.O.P.No.115 of 2015 on the file of the Sub-Court, Dindigul, for restitution of conjugal rights. The petitioner is residing with her minor child at Nilakottai and it is very difficult for her to travel from Dindigul to Periyakulam for each and every hearing. In the circumstances, on 09.10.2015 when the



petitioner attended the Court proceedings at Subordinate Court, Periyakulam, the respondent threatened the petitioner. Immediately, she has given a complaint on 11.10.2015 before the Inspector of Police, Periyakulam Police Station and due to that vengeance, there is life threat to the petitioner by the respondent. In the circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition, for joint trial.

4.The learned counsel appearing for the respondent submitted that as per the order passed by this Court, the respondent paid maintenance. The distance between Periyakulam and Dindigul, is one and the same from the residence of petitioner and therefore, there will not be any difficulty for her to attend hearings before the Sub-Court, Periyakulam and he prayed for dismissal of the Tr.C.M.P.

5.I have heard Mr.R.Karunanidhi, learned counsel appearing for the petitioner and Mr.A.Uthayakumar, learned counsel appearing for the respondent and carefully perused the entire materials on record.

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, 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]**. Moreover, in order to avoid conflicting decisions both the cases have to be tried together by the same Court. Therefore, I am of the view that the petition filed by the wife is liable to be allowed.

7.Accordingly, the Transfer Civil Miscellaneous Petition is allowed and the H.M.O.P.No.39 of 2014 pending on the file of the Subordinate Court, Periyakulam is ordered to be withdrawn and transferred to the file of the Sub-Court, Dindigul, to be tried along with H.M.O.P.No.115 of 2015. The learned Subordinate Judge, Periyakulam, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.115 of 2015 to the transferee Court, within a week from the date of receipt of a copy of this order, if the same is not yet disposed of. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, the connected miscellaneous petition is closed.

8.The learned Subordinate Judge, Dindigul is directed to dispose of both H.M.O.P.Nos.39 of 2014 and 115 of 2015, as expeditiously as possible on or before 31st August 2016.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar



To

- 1.The Subordinate Judge, Periyakulam.
- 2.The Subordinate Judge, Dindigul.

Copy to:

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

- +1 CC to Mr.R.Karunanidhi, Advocate, SR No.11719
+1 CC to Mr.A.Uthaya Kumar, Advocate, SR No.11683

Tr.C.M.P (MD) No.442 of 2015
and
M.P. (MD) .No.1 of 2015
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